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ABSTRACT

This publication is directed toward city auditors in North Dakota's "small towns" where the city auditor is either a volunteer or a very limited part-time position. Duties and responsibilities of the North Dakota city auditor as provided by statute are outlined. These topics are covered: the office and general duties of city auditor; official positions held ex-officio by the city auditor; special assessments; municipal budgets; city elections; annexation and zoning changes; ordinances; council form of government; and fire reporting. Sample forms which may be used by the city auditor relating to special assessments, city elections, and annexation and zone changes are included in the appendixes. (SC)

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Community Development Training Manual

for

North Dakota City Auditors

compiled by

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This publication has been developed in part under a grant from the U.S. Department of Housing and Urban Development for Community Development Training Programs under Title VIII, Part 1, of the Housing Act of 1964, as amended. This does not, however, constitute endorsement of this publication by the Department of Housing and Urban Development.

PREFACE

In July, 1970, the Bureau of Governmental Affairs published Special Report No. 18 entitled "Community Development Training Manual for North Dakota City Auditors' compiled by Harlan G. Fuglesten. That report was one of a series of Community Development publications financed in part under a grant from the U.S. Department of Housing and Urban Development.

Since then the North Dakota Municipal Finance Officers Association has expressed an interest for an expanded edition of that publication to be directed towards the city auditors in North Dakota's "small towns." Approximately 90% of North Dakota municipalities are "small towns" where the city auditor is either a volunteer or very limited part-time position. The city auditor is a key person in our municipalities and it is essential to have a well-informed person in this post in order to build a sound foundation for future community development.

With these considerations in mind, this handbook has been compiled outlining the duties and responsibilities of the North Dakota city auditor as provided for by statute. The North Dakota Century Code citations are also included for reference to the applicable sections. Also included is an extensive collection of sample forms that may be used by the city auditor in performing his various duties.

This publication has been developed in part under a grant from the U.S. Department of Housing and Urban Development for Community Development Training Programs under Title VIII, Part I, of the Housing Act of 1964, as amended. Publication of this manual, however, does not constitute endorsement by the Department of Housing and Urban

Development.

The Bureau of Governmental Affairs would like to thank the Deputy City Auditor of Grand Forks, Mr. Bob Lerud, and the City Auditor of Bismarck, Mr. Tom Baker, for their advice and assistance in the completion of this handbook. The editorial assistance of Professor Stuart Lundberg is also gratefully acknowledged.

Lloyd B. Omdahl, Director
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Chapter I

THE OFFICE OF CITY AUDITOR

This chapter presents general information on the office of city auditor in the state of North Dakota. Contained within are the applicable sections of the North Dakota Century Code outlining the eligibility, selection, term of office, salary, and removal of city auditors in North Dakota.

A. Eligibility:
The city auditor, in order to be eligible to hold an appointive municipal office must be a qualified elector of the municipality and a resident there for at least nine months preceding the election. No person shall be eligible to hold an appointive office unless he is a citizen of the United States. No person in default to the municipality shall be eligible to any office. (Default - failure to pay a debt, or to fail in fulfilling a contract, agreement, etc., especially an agreement about money.) (40-13-01)

B. Selection:
1. Council Cities:
In council cities, the city auditor shall be appointed by the mayor, with the approval of the city council. (40-14-04)

2. Commission Cities:
In commission cities, the city auditor shall be appointed by the board of city commissioners at the first meeting after the qualification of its members, or as soon thereafter as possible. (40-15-05)

C. Term of Office:
1. Council Cities
The term of the city auditor of a city operating under the council form of government will begin on the 1st day of May succeeding his appointment unless otherwise provided by ordinance. The city auditor shall hold his office for a term of two years, and until his successor is appointed and qualified. (40-14-05)

2. Commission Cities:
The term of the city auditor of a city operating under the commission system of government will begin on the 1st day of May succeeding his appointment unless otherwise provided by ordinance. The city auditor shall hold his office for a term of two years, and until his successor is appointed and qualified. (40-15-06)

D. Certificate of Appointment and Oath of Office:

1. Appointment:
The mayor shall issue a certificate of appointment to the auditor under the seal of the corporation. (40-14-06)

2. Oath of Municipal Officers:
As provided in the North Dakota Century Code, Section 40-13-03, every person elected or appointed to any municipal office, before he can enter upon the discharge of his duties, must take and subscribe the oath of office prescribed for civil officers. The oath of the city auditor shall be filed in the office of the county in which the municipality is located. (40-13-03)

3. Oath of Civil Officers:
Since he is a civil officer, the city auditor, in the state of North Dakota, before entering upon the duties of his office must take and subscribe the oath prescribed in Section 211 of the North Dakota constitution. Such oath must be endorsed upon the back of, or attached to, the commission, appointment, or certificate of election. (40-01-05)

E. Bond of City Auditor:
The city auditor of each municipality before entering upon the discharge of the duties of his office, must execute and deliver to the municipality his separate bond payable to the municipality, conditioned for the honest and faithful performance of his official duties. Such bond shall be in an amount fixed by the governing body of the municipality. All official bonds shall be approved by the executive officer of the municipality and filed in the office of the city auditor. Such bonds shall conform to the provisions of law applicable to the bonds of state officers and employees except that no personal surety shall be accepted on any bond. No municipality shall pay the premium in any bond except a bond written in the state bonding fund or a bond procured to replace a bond canceled by the state bonding fund. The governing body at any time may require new and additional bonds of any officer. (40-13-02)

F. Salary of City Auditor:
Except where otherwise provided in the North Dakota Century Code, the city auditor of a municipality shall receive the salary, fees, or other compensation fixed by ordinance or resolution, and after having been once fixed, no reduction in the same shall take effect during the term for which the city auditor was appointed. (40-13-04)

G. City Auditor May Hold No Other Office:
No city auditor or treasurer shall hold any other office under the city government during his term of office. (40-14-07)

H. Restrictions on Monetary Interest:
(All of the following restrictions and penalties may apply to the city auditor of a municipality.)

1. Restrictions:
Except as otherwise provided by law, no municipal officer, in a municipality having a population of ten-thousand or more according to the last decennial census, shall be directly or indirectly interested in:

(a.) Any contract, work, or business of the municipality:

(b.) The sale of any article the expense, price, or consideration of which is paid from the municipal treasury, or by any assessment levied by any act or ordinance; or

(c.) The purchase of any real estate or other property belonging to the municipality or which shall be used for taxes or assessments or by virtue of any process issued in any suit brought by the municipality. (40-13-05)

2. Penalties:

(a.) Any officer or member of the governing body of any municipality who by himself or his agent becomes a party to or in any manner interested in any contract, work or letting under the authority of the municipality, in violation of law, or who accepts or receives, either directly or indirectly, by himself or through other parties, any valuable consideration or promise for his influence or vote on any such contract or letting, is guilty of a misdemeanor and shall be punished by a fine in the sum not to exceed one thousand dollars, and the contract shall be null and void. (40-13-06)

(b.) No public officer, member of any board, bureau or commission, nor any employee or appointee thereof, shall use his office position for the purpose of effecting the sale or purchase of any equipment, merchandise or service for which he will benefit financially. Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, and removed from office. (44-04-17)

I. Vacancies, Removal & Resignations:

1. Vacancies:

(a.) Causes for vacancies:

The office of city auditor shall become vacant if the incumbent shall:

(1.) Die in office;

(2.) Be adjudged mentally ill;

(3.) Resign from office;

(4.) Be removed from office;

(5.) Fail to discharge the duties of his office, when such failure has continued for 60 consecutive days, except when prevented from discharging such duties by reason of his service in the armed forces of the United States, by sickness, or by other unavoidable cause, provided, however, that concerning any office which under the law must be filled by the governor, the governor for a good cause shown may extend the period, which the incumbent may be absent, for an additional period of 60 days. No renumeration on account of such office shall be paid to an absentee city auditor during his absence, and such office in all cases shall become vacant upon the termination of the term for which he was appointed;

(6.) Fail to qualify as provided by law;

(7.) Cease to be a resident of the state, district, county, or township in which the duties of the office are to be discharged, or for which he may have been elected;

(8.) Be convicted of a felony or any offense involving moral turpitude or a violation of his official oath;

(9.) Cease to possess any of the qualifications of office prescribed by law; or

(10.) Have his (election or) appointment declared void by a competent tribunal. (40-02-01)

(11.) When any officer removes from a municipality or refuses or neglects for 10 days after official notification of his appointment to qualify and enter upon the discharge of the duties of his office, the office shall be deemed vacant. (40-13-07)

(b.) How vacancy filled:

(1.) Whenever a vacancy occurs in the office of the city auditor, the same proceedings shall be had to fill such vacancy as are provided for in the case of an appointment in the first instance. (40-13-08)

(2.) Unless otherwise specifically provided, every person elected or appointed to fill a vacancy in a municipal office shall hold his office and discharge the duties of the office for the unexpired term. (40-13-09)

2. Removals:

(a.) Council city:

The mayor may remove the city auditor whenever he is of the opinion that the interests of the city demand such removal, but he shall report the reasons for such removal to the council at its next regular meeting. (40-08-19)

(b.) Commission city:

A majority vote of all the members of the board of city commissioners may remove the city auditor. Yet no officer or employee shall be removed except for cause and unless charges are preferred against him and he is accorded an opportunity to be heard in his own defense. Within 10 days after charges are filed against any such person in the office of the city auditor, the board shall proceed to hear and determine the case upon its merits. The president of the board of city commissioners, or the board, by a majority vote of its members, may suspend any officer or employee against whom charges have been preferred until the disposition of the charges. The president may appoint a person to fill any vacancy temporarily until charges against the incumbent of

such office have been disposed of. Any persons appointed by the president without confirmation may be removed by him when he deems it for the best interests of the city. (40-15-07)

(c.) Removal by Grand Jury:
If there is an accusation in writing against the city auditor for misconduct, malfeasance, crime, or misdemeanor in office, or for habitual drunkenness or gross incompetency, it may be presented by the grand jury to the district court of the county in or for which the officer accused is elected or appointed. (44-10-02)

(d.) Removal by governor:
The governor may remove from office any city auditor whenever it appears to him by competent evidence and after hearing, that such officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office or of habitual drunkenness or gross incompetency. (44-11-01)

The complaint or charges against any city auditor shall be entitled in the name of the state of North Dakota and shall be filed with the governor. It may be made upon the relation of any five qualified electors of the county in which the person charged is an officer, or by the states attorney or other competent attorneys, upon request of the governor, shall appear and prosecute. (44-11-02)

3. Resignations:
The resignation of the city auditor must be made in writing to the body, board, court, or officer which appointed him. Therefore in council cities the auditor must submit his resignation to the mayor and council; in commission cities to the board of city commissioners. (44-02-02)

J. Where City Auditor's Office Is Located:
The city auditor of each city shall keep his office at the meeting place of the governing body or at any other convenient place designated by such body. (40-16-01)

K. Deputy Auditor May Be Appointed:
The city auditor, with the consent and approval of the governing body of the city, may appoint and file such appointment in his office. The deputy, if one is appointed, shall aid in the performance of the duties of the office under the auditor's direction and in

the absence or disability of the auditor, or if there is a vacancy in the office of the auditor, the deputy shall perform the duties of the auditor. The auditor and the surety of his official bond shall be liable for the acts of the deputy. (40-16-02)

Chapter II

GENERAL DUTIES OF THE CITY AUDITOR

This chapter outlines the various duties of the North Dakota City auditor, reports he must make, procedures for record-keeping, and duties regarding tax levies.

A. It shall be the duty of each city auditor:

1. Meetings:
To attend all meetings of the governing body and keep a complete record of its proceedings;

2. Corporate seal and records:
To keep the corporate seal and all papers and records of the city;

3. Orders:
To draw and countersign all orders on the treasury in pursuance of any order or resolution of the governing body and keep a full and accurate account thereof in books provided for that purpose;

4. Bonds and evidences of indebtedness:
To examine and countersign all bonds, orders, or other evidences of indebtedness of the city before the same becomes valid;

5. Books of account:
To keep regular books of account in which he shall enter all indebtedness of the city and which at all times shall show the financial condition of the city, the amount of bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding;

6. List of Bonds, Orders, and Other Evidences of Indebtedness:
To make and keep a list of outstanding city bonds, orders, certificates, or other evidences of indebtedness showing to whom and for what purpose the same were issued, when and where each

is payable, the rate of interest each bears, and to recommend such action to the governing body as will secure the punctual payment of the principal and interest of such bonds or other indebtedness;

7. Countersign Contracts :
To countersign all contracts made in behalf of the city if the necessary funds have been provided to pay the liability incurred thereunder, to countersign certificates of work authorized by any city officer. Each contract made in behalf of a city or to which a city is a party shall be void unless countersigned by the auditor;

8. Present Communications:
To present to the governing body for its consideration at its next meeting, all communications, claims, and other matters filed in his office;

9. Ordinances and Official Bonds :
To record all ordinances adopted and licenses granted by the city and all official bonds of city officers in books kept for that purpose which shall be open to public inspection at reasonable times;

10. Work Certificates:
To keep a list of all certificates issued by the city for work or any other purpose;

11. Accounts with Officers :
To keep accounts with all receiving and disbursing officers of the city showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the governing body.

12. Record of Official Acts :
To keep a record of his official acts and doings and to enter all contracts in an indexed book which shall be open to the inspection of the public;

13. Special Assessment Lists:
To make a list of all certificates for the payment of which special taxes are to be levied in each year in time for the same to be inserted in the tax roll in the form of a schedule of special taxes and to certify to the correctness thereof. The certified schedule shall be prima facie evidence of the legality and regularity of the taxes levied in pursuance thereof, but no irregularity in the making of such lists shall invalidate any such special tax;

14. Account With Treasurer :
To keep an accurate account with the treasurer and charge him with all sums of money paid into the treasury;

15. Examination of Treasurer's Accounts :
To examine each month the treasurer's accounts as reported and kept by him and to report as to the correctness of the same, and also to report any violation by the treasurer of his duties in the manner of keeping his accounts or disbursing moneys;

16. Examine Treasurer's Reports and Accounts:
To examine all reports, books, papers, vouchers, and accounts of the city treasurer; and

17. Additional duties:
To perform, from time to time, such duties not required specifically by the provisions of this chapter as the governing body may direct. (40-16-03)

B. Reports of City Auditor
The city auditor of each city shall prepare and submit to the governing body of the city reports as follows:

1. Monthly Report:
A written report each month showing the condition of the several funds of the city and all outstanding contracts and claims which may be payable out of any such funds.

2. Quarterly Report:
A report in July, October, January, and April of each year showing a full, clear, and complete statement of all the taxes and other revenues collected and expended for the preceding three months, and indicating the respective sources from which the moneys are derived and the disposition made thereof;

3. Semiannual Report:
A report on or before January tenth and July tenth of each year, showing the receipts and expenses of the city for the six-month periods ending December thirty-first and June thirtieth, respectively. Such a report shall include a statement of the financial condition of all municipal funds as of the date for which it is given, and shall be kept on file in the office of the city auditor as a permanent public record. Certified copies of the report shall be forwarded to and kept on file in the offices of the county auditor and county treasurer and shall be open to public inspection and examination: and:

4. Annual Statement:
A detailed statement, on or before the tenth day of July in each year, showing the expenses of the city during the last fiscal year and an estimate of the expenses for the ensuing fiscal year and the income for that year from sources other than taxes. (40-16-04)

C. City Auditor to Publish Financial Statement:
Within thirty days after the close of each fiscal year, the auditor of each city shall make and cause to be published in the official newspaper a financial statement of the city showing the receipts and disbursements on account of each fund during the last preceding year. (40-16-05)

D. Claims and Demands Against City Filed with Auditor:
All claims and demands against a city, whether founded on contract or otherwise, and to be paid from any fund including a municipal utilities fund, shall be filed with the city auditor. He shall examine each claim filed and determine whether or not it is properly itemized and certified in the form prescribed in section 54-14-04. If a claim is filed on a contract, he shall determine whether or not the items charged are correct and were incurred by proper authority. The auditor shall endorse his approval upon any claim which he finds to be correct. If he disapproves any claim in whole or in part he shall report his reasons therefor to the governing body. He shall report all evidence taken by him in connection with any claim. No claim shall be considered by the governing body until it shall have been examined and reported upon by the auditor and audited and adjusted by the proper committee or member of the governing body. (40-16-06)

E. City Auditor May Take Testimony:
A city auditor may administer oaths and affirmations to witnesses and take testimony in connection with any of the duties imposed upon him by the laws of this state (40-16-07)

F. Copies of City Auditor's Records May Be Used as Evidence:
Copies of any and all books, papers, documents, or instruments duly filed and kept in the office of a city auditor and transcripts from the records of the proceedings of the governing body of a city certified by the city auditor under the corporate seal of the city shall be evidence in all courts and places in like manner and with the same force and effect as if the originals were produced. (40-16-09)

G. Destruction of City Records:
After the same have first been offered to the state historical society, the city auditor shall destroy by burning any of the

following records, forms, or blanks after the same have become ten years old.

1. Election poll books;
2. Election registration books;
3. Petitions of candidates
4. All election forms, blanks, books, and records of any kind and description except abstracts of votes;
5. Assessment slips;
6. Claims vouchers which have been audited and paid:
7. Certificates of officials' bonds; and
8. Insurance policies which have become obsolete. (40-16-10)

H. Procedure for Destruction of Documents;
The governing body of any school district, city or park district desiring to destroy any documents described in section 21-06-05, at its first meeting in January of each year, shall procure from the auditor or clerk of such school district, city or park district a list of such documents which have been paid more than ten years prior to such time and against which the period within which an action might be commenced to determine the validity of such documents has expired, which said list shall contain a full statement and description of the documents desired to be destroyed, and thereupon shall check said documents with such lists. If found correct, the said governing body by resolution shall provide the manner of such destruction. The list provided for in this section shall be filed in the office of the city auditor or clerk of the school district or park district and retained as a permanent record. (21-06-06)

I. City Auditor Shall Certify Tax Levies:
The taxes levied or voted by any city, township, school district, park district, or other municipality authorized to levy taxes, shall be certified by the officer acting as clerk of the governing body of such municipality to the county auditor immediately following the action of the governing body, or within ten days thereafter. (57-15-32)

J. Penalty for Failure to Certify Tax Levy:
Any officer required by law to report the amount of taxes to be levied for any municipality, who fails, neglects, or refuses to make such report within the time required by law, shall be subject to a penalty of not less than twenty-five dollars for such refusal or neglect, to be recovered on complaint of the county auditor before

any court of competent jurisdiction. Upon complaint of the county auditor, the state's attorney shall bring an action in the name of the state for the benefit of the county general fund.

(57-15-33)

Chapter III

OFFICIAL POSITIONS HELD EX-OFFICIO BY CITY AUDITOR

This chapter outlines the ex-officio positions on various boards and commissions held by the city auditor because of his position. These boards and commissions may include the Board of Public Works, Board of Budget Review, Civil Service Commission, and the City Board of Equalization.

A. City Auditor a Member of Board of Public Works in Commission Cities: The city auditor in a city operating under the commission system of government shall be ex-officio secretary of the board of public works and shall perform the duties of a member of such board. (90-16-08)

B. City Auditor Shall Serve as Clerk of the Board of Budget Review: The representatives of the local boards shall meet on the day appointed by the city auditor, which shall be not later than July twentieth, and shall organize by electing a chairman and vice-chairman. The city auditor shall serve as the clerk of the board of budget review. Such representatives shall appoint the members at large from the resident freeholders of the municipality or school district. All members shall serve without compensation. Before entering upon the duties of his office, each member shall take, subscribe, and file with the city auditor the oath required of civil officers. Vacancies on the board shall be filled in the manner in which the original appointment was made. (90-41-03)

C. Civil Service Commission:

1. Cities of Certain Population May Adopt Civil Service System: The governing body of any city having a population of more than four thousand inhabitants according to the latest official federal or state census may adopt, by ordinance, a civil service system for the selection, employment, classification, advancement, suspension, retirement, or discharge of appointive officials or employees of the city. (90-44-01)

2. Failure or Refusal of City to Adopt Civil Service-Petition filed with City Auditor:
If the governing body of any city which is subject to the provisions of this chapter (40-44) shall fail or refuse to adopt the provisions of this chapter, twenty percent of the qualified electors of the city may file a written petition with the city auditor demanding that the provisions be adopted or that the question be submitted to the electors of the city, and unless the civil service system is adopted by the governing body, the question shall be submitted to the electors of the city at the next regular municipal election. (40-44-02)

3. City Auditor Shall Serve as Ex-Officio Clerk of the Civil Service Commission:
If a commission is created, the terms of office of three commissioners first appointed shall be one, three and five years, respectively. Thereafter, original appointments shall be for a five-year term. If a commissioner is appointed, the first appointment and any subsequent original appointment shall be for a three-year term. In case of a vacancy in the office of a member of the commission or in the office of the commissioner, the governing body shall fill the vacancy by appointment for the balance of the term. The city auditor shall be ex-officio clerk of the commission or commissioner. (40-44-05)

D. City Auditor Shall Serve as Clerk of the City Board of Equalization:
1. The City Auditor Shall Keep a Record of Changes in Valuation and All Other Proceedings of Board:
The city auditor, as clerk, shall keep an accurate record of all changes made in valuation, and of all other proceedings, and, within ten days after the completion of the equalization of the assessment, shall deliver the assessments as equalized to the county auditor of the county in which the city is situated, with his certificate that the assessments are correct as equalized by the city board of equalization. The assessment as equalized shall be accepted by the board of county commissioners in lieu of all other assessment rolls for the property in said city. (57-11-02)

2. City Auditor Shall Receive Assessment Roll from City Assessor and Deliver to City Board of Equalization:
When the assessment is completed, and on or before the first day of June in each year, the city assessor shall return the assessment roll to the city auditor. The assessment roll

shall be open to the inspection of the public until the meeting of the board of equalization of the municipality. The city auditor shall deliver the assessment roll to the board of equalization of the municipality at its regular meeting. (40-19-03)

3. Duty of Auditor in Relation to Assessments in Municipalities Located in More than one County:
The auditor of a municipality embracing territory in more than one county shall transmit the appropriate assessment books, with a certified copy of the minutes showing the proceedings of the board of equalization to the county auditor of each county in which the municipality is situated. The auditor shall apportion correctly the amount of any tax levy to be certified to each county in accordance with the valuation as determined finally by the equalization board. (40-01-16)

CHAPTER IV

SPECIAL ASSESSMENTS

This chapter outlines the power of municipalities to use special assessments for special improvements, the setting up of a special assessment commission, and the procedures to be followed in the various types of special assessments.

I. Power of Municipalities in Regard to Special Assessments:

A. Power to defray expense of improvements by special assessments: Any municipality, upon complying with the provisions of this chapter, may defray the expense of any or all of the following types of improvement by special assessments:

1. The construction of a water supply system, or sewage system, or both, or any part thereof, or any improvement thereto or extension or replacement thereof, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water storm sewer mains and outlets, facilities for treatment and disposal of sewage and other municipal, industrial and domestic wastes, and all other appearances, contrivances and structures used or useful for a complete water supply and sewage system;
2. The improvement of the municipal street system or any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of overhead pedestrian bridges, pedestrian tunnels, storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of street lights and all types of decorative street lighting, including but not restricted to Christmas street lighting decorations;
3. The improvement of boulevards and extra public places by the planting of trees, the construction of grass plots and the sowing of grass seed therein, and the maintenance and preservation of such improvements by the watering of such

trees and grass, the cutting of such grass, and the trimming of such trees, or otherwise in any manner which may appear necessary and proper to the governing body of the municipality;

4. The acquiring of the necessary land and easements and the construction of the necessary works, within and without the municipality, for flood protection of properties within the municipality; and
5. The acquiring or leasing of the necessary property and easements and the construction of parking lots, ramps, garages, and other facilities for motor vehicles.

In planning and improvement project of a type specified in any one of the foregoing subsections, the governing body may include in such plans any and all items of work and materials which in its judgement are necessary or reasonably incidental to the completion of an improvement project of such type. (40-22-01)

B. Restoration of Certain Property Damaged in Flood Control -- Special Assessments for Costs;
When any city shall have constructed any temporary emergency flood control protection devices or works to protect property located within a portion of a city from flood damage, the city may cause the removal of material used in the construction of such temporary emergency flood control protection devices or works and the repair of damages to land, buildings, or personal property caused by the operation of its equipment upon the property while in the process of installing or removing such temporary emergency flood protection systems. Such city may create by resolution of its governing board a special assessment district encompassing the protected area. Special assessments against the property within the district shall be imposed to cover the costs incurred by the city in removing the material used and in repairing the damages caused by the operation of equipment while installing or removing such temporary emergency flood protection systems. Special assessments against any property in the district shall be determined and made in the same manner as is provided for improvements by special assessments to the extent consistent herewith, and the certification and collection, including lien provisions, applicable to other special assessments shall be applicable hereto. Provided, however, that the provisions of sections 40-22-15,40-22-17, and 40-22-18 of the North Dakota Century Code, relating to a resolution of necessity and protests against special assessments, shall not apply to special assessment districts created pursuant to this section. (40-22-01.1)

C. Power to Lay Special Assessments:
The foundation of the power to lay a special assessment for a local improvement of any character, including the improvement of a city street, is the benefit which the object of the assessment confers on the owner of the abutting property, or the owners

of property in the assessment district, which is different from the general benefit which the owners enjoy in common with other inhabitants or citizens of the municipal corporation. Murphy v. City of Bismarck, 109 NW 2d 635, annotation to NDCC 40-23-01.

II. Special Assessment Commission:

A. Appointment of members, terms and office:
The executive office of each municipality, when it shall be found necessary, shall appoint three reputable residents and freeholders of the municipality as members of a commission which shall be known as the special assessment commission. The members appointed to the first special assessment commission in a municipality shall hold office, respectively, for terms designated by the executive officer when the appointments are made, as follows:

1. One member shall hold office until the first meeting of the governing body in April of the first odd numbered year following his appointment;
2. One member shall hold office until the first meeting of the governing body in April in the second odd numbered year following his appointment; and
3. One member should hold office until the first meeting of the governing body in April in the third odd numbered year following his appointment.

At the first meeting of the governing body in April of each odd numbered year, or as soon thereafter as practicable, the executive officer shall appoint a member of such commission. After the members of the first special assessment commission have been appointed as provided in this section, each appointment shall be made for a term of six years. (40-23-01)

B. Confirmation of Commissioners -- Qualifications -- Chairman -- Compensation;
All appointments made to the special assessment commission shall be subject to the confirmation of the governing body. Upon his appointment and confirmation, each commissioner shall file with the city auditor a written acceptance of the appointment and shall take and subscribe the oath required of other municipal officers, which shall be filed with the city auditor. The member of the commission having the shortest term to serve shall act as chairman. No member of the commission shall hold any other municipal office while serving as such member. Each member of the commission shall receive as compensation for his services while actually engaged in the duties of the commission the sum of five dollars a day. (40-23-02)

C. Removal of Commissioners and Filling Vacancies:
Any member of the commission may be removed by the executive officer, with the consent of a majority of the members of the governing body, for neglect or refusal to perform the duties of his office or for misconduct in office. A vacancy occurring

in the commission by removal, resignation, or death shall be filled by appointment by the executive officer as soon as possible. (40-23-03)

D. Municipal Officers and Employees to Advise Commission; Each officer and employee of the municipality shall give the special assessment commission such information, advise, and assistance as it may request. (40-23-04)

III. Procedure for Special Improvements By Special Assessments:

A. Regulations governing determination of special assessments by commission;
Whenever the commission is required to make any special assessment under the provisions of this title, the members thereof personally shall inspect any and all lots and parcels of land which may be subject to such special assessment and shall determine from such inspection the particular lots and parcels of land which in the opinion of the commission will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just portion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure heretofore provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes. (40-23-07)

B. Petition Requesting Improvement:
(Sample petitions found in Appendix A, Forms 1 & 2)

C. Improvement districts:

1. Creation of:
For the purpose of making an improvement project of one of the types specified in section 40-22-01 and defraying the cost thereof by special assessment, a municipality may create water districts, sewer districts, water and sewer districts, street improvement districts, boulevard improvement districts, flood protection districts, and parking

districts, and may extend any such district when necessary. The appropriate special improvement district may be created by ordinance or resolution. The district shall be designated by a name appropriate to the type of improvement for the making of which it is created, and by a number distinguishing it from other improvement districts. Nothing herein, however, shall prevent a municipality from making and financing any improvement and levying special assessments thereof under any alternate procedure set forth in this title.(40-22-08)

2. Size and Form; Regulations Governing;
Any improvement district created by a municipality may embrace two or more separate property areas. Each improvement district shall be of such size and form as to include all properties which in the judgement of the governing body, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for such district, or by any portion or portions of such project. A single district may be created for an improvement of the type specified in any one of the subsections of section 40-22-01, notwithstanding any lack of uniformity among the types, terms, or quantities of work and materials to be used at particular locations throughout the district. The jurisdiction of a municipality to make, finance and assess the cost of any improvement project shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose or character of the improvement, or by the fact that any one or more of the properties included in the district is subsequently determined not to be benefited by the improvement, or by a particular portion thereof, and is not assessed therefor. There may be omitted from a water or sewer district in the discretion of the governing body, properties within the corporate limits which are benefited by the improvement therein but do not abut upon a water or sewer main, without prejudice to the right and power of the municipality subsequently to assess such properties to the extent and in the manner permitted by law. The governing body may be resolution enlarge an improvement district in which an improvement is proposed or under construction upon receipt of a petition therefor signed by the owners of three-fourths of the area to be added to the district. (40-22-09)

D. Engineers Report Required-- Contents;
After a special improvement district has been created, the governing body of a municipality, if it deems it necessary to make any of the improvements set out in section 40-22-01 in the manner provided in this chapter, shall direct the engineer for the municipality, or some other competent engineer if the municipality does not have a competent municipal engineer to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of

the probable cost of the work. (40-22-10) (Sample form of Engineer's Estimate of probably cost found in Appendix A; Form 3)

If an improvement to be financed by special assessments consists in paving or re-paving any street, alley, or public place, the governing body of the municipality may require the plans, specifications, and estimates for the improvement to be made for one kind of pavement or several different kinds of pavement as it may deem advisable. If one contemplated improvement consists of planting trees, constructing grass plots, sowing grass seed therein, otherwise parking or beautifying any of the streets, highways, avenues, lanes, or other public grounds within the municipal limits, the governing body may require the plans, specifications, and estimates to show the probable cost of making, constructing, or maintaining such improvements or any of them. (40-22-12)

E. Approval of plans, specifications, and estimates -- Approval established grade of street;
At any time after receiving the engineer's report required by section 40-22-10, the governing body may direct the engineer to prepare detailed plans and specifications for construction of the improvement. The plans and specifications shall be approved by a resolution of the governing body of the municipality. If the plans and specifications include the establishment of the grade of a street and such grade has not been established previously by ordinance, the resolution approving the plans, specifications, and estimates shall constitute an establishment of the grade. (40-22-11) (Sample form of Resolution found in Appendix A; Form 4)

1. Municipal Engineer to Retain Copies of Plans, Specifications, and Estimates;
The engineer acting for the municipality shall retain a copy of the plans, specifications, and estimates which have been prepared for any improvement on file in his office. He shall furnish to any person applying therefor copies of the same, and, if he is an officer of the municipality, he may charge one dollar an hour for the time necessarily employed in making such copies. (40-22-13)

2. Plans, Specifications, and Estimates Filed in Office of City Auditor;
The plans, specifications, and estimates shall be the property of the municipality and shall be filed in the office of the city auditor and shall remain on file in his office subject to inspection by anyone interested therein. (40-22-14)

F. Resolution declaring improvements necessary -- Exception for sewer and water mains;
After the engineer's report required by section 40-22-10 has been filed and approved, the governing body of the municipality, by resolution, shall declare that it is necessary to make the

improvements described therein. Such resolution shall not be required, however, if the improvement consists of the construction or alteration of sewer or water mains, unless it is determined that the cost thereof shall be paid in part as is provided in section 40-22-16, nor if the governing body determines by resolution that a written petition for the improvement, signed by the owners of a majority of the area of the property included within the district, has been received. The resolution shall refer intelligibly to the engineer's report, and shall be published once each week for two consecutive weeks in the official newspaper of the municipality. (40-22-15)

G. Protest against Resolution of Necessity;
If, within thirty days after the first publication of the resolution declaring the necessity of an improvement project of the type specified in any one of the subsections of section 40-22-01, the owners of any property within the improvement district file written protests with the city auditor protesting against the adoption of said resolution, the governing body of the municipality at its next meeting after the expiration of the time for filing such protests shall hear and determine the sufficiency thereof. (40-22-17)

1. Protest Bar to Proceeding;
If the governing body finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district the protests shall be a bar against proceeding further with the improvement project described in the plans and specifications. If the governing body finds the protests to contain the names of the owners of a majority of any separate property area included within the district, such protests shall be a bar against proceeding with the portion of such improvement project, the cost of which is to be assessed in whole or in part upon property within such area, but shall not bar against proceeding with the remainder of the improvement project or assessing the cost thereof against other areas within the district, unless such protests represent a majority of the area of the entire district. The termination of proceedings, by reason of protest or otherwise, shall not relieve the municipality of responsibility for payment of costs theretofore incurred; and for payment of such costs a municipality may, if funds on hand and available for the purpose are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the cost of a special improvement project by general taxation within the meaning of section 57-15-10. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of property required in connection therewith and may levy and collect assessments therefor. (40-22-18)

H. Call for Bids;

1. Contents - Advertising:
Proposals for the work of making improvements provided for in this chapter shall be advertised for by the governing body in the official newspaper of the municipality once each week for two consecutive weeks. The governing body may cause the work on two or more improvements to be combined in one advertisement and one contract awarded pursuant thereto. The advertisement for bids may be published at the same time as the resolution of necessity and shall:

(a.) Specify the work to be done according to the plans and specifications on file in the office of the city auditor;

(b.) Call for bids upon the basis of cash payment for the work;

(c.) Describe the several kinds of paving material if the governing body shall have required plans, specifications and estimates for the improvement to be made for more than one kind of pavement;

(d.) State the time within which the bids will be received; and

(e.) State the time within which the work on the improvements is to be completed.

The governing body may require bidders to state also the rate of interest, not exceeding seven percent per annum, which the warrants to be received and accepted by the bidder at par in payment for the work shall bear. (40-22-19) (Sample copy of Call for Bids, Appendix A; Form 6)

2. Bid to be accompanied by a bond -- Bond retained upon failure of bidder contract -- Amount of bond:
Each bid for any work to be done under the provisions of this chapter shall be accompanied by a bidder's bond in the amount of five percent of the amount of the bid, executed as provided in this chapter and running to the municipality that the bidder will enter into a contract for performance of such work in case a contract is awarded to him. If any bidder to whom a contract is awarded fails or refuses to enter into such contract when requested to do so, the bond accompanying his bid shall be retained by the municipality as liquidated damages for such failure. The bond shall be delivered to the treasurer of the municipality and shall be credited by him to the fund from which the consideration for such work is payable. The sufficiency of any bond filed by a bidder shall be determined by the governing body at the time of considering bids. (40-22-20)

3. Conditions of Bidder's Bond:
A bidder's bond shall be made payable to the municipality and shall be conditioned that if the principal's bid shall be accepted and the contract for the work of improvement awarded to him, he, within ten days after the acceptance

of his bid, or within such further time as the governing body shall grant, will enter into and will excute a contract bond in a sum equal to the amount of the bid, and a contract in writing to and with the municipality well and faithfully to perform and complete the work for which his bid was accepted, in accordance with the plans and specifications therefor and the terms of his bid and within the time required by the terms of such contract, and that he will pay for all the labor and materials used in such work. Such bond shall be for the benefit of the municipality. (40-22-23)

I. Filing -- Sealing -- Endorsing -- Opening and Considering of Bids;
Bids for the work to be let under the provisions of this chapter shall be forwarded to the city auditor and shall be sealed securely to prevent the opening thereof without detection. There shall be endorsed upon the outside of the envelope containing the bid a statement of what work such proposal is for. The bids shall be opened by the governing body at the expiration of the time limited in the advertisement for receiving the same, which shall not be less than fifteen days after the first publication of the advertisement or at such other time as the governing body may appoint. Only bids which are accompanied by the check and bond provided for in section 40-22-20 shall be considered by the governing body. (40-22-24)

J. Bids to be Entered on Minutes;
After the bids have been opened and made public, they shall be entered upon the minutes of the meeting of the governing body of the municipality at which they are considered, and they shall be preserved carefully by the city auditor. If the governing body has called for bids on more than one kind of pavement, action on the bids shall be deferred for a period of at least five days and not less than five days after the opening of the bids, a meeting of the governing body shall be held for the purpose of considering and acting upon such bids. Notice of the time and place of such meeting shall be published by the city auditor in at least issue of the official newspaper of the municipality not less than five days before the date fixed for such meeting. (40-22-25)

K. Rejection of Bids-Readvertising for Bids;
The governing body, if in its opinion the best interests of the municipality will be subserved thereby, may reject any and all bids filed under the provisions of this chapter. If all bids are rejected, the governing body may:
1. Readvertise for new bids; or

2. Cause the work described in the plans, specifications, and estimates to be done directly by the municipality

employment of labor and the purchase of material required, or in any other manner which the governing body shall consider proper, and payment for such work may be provided through special assessments in the same manner as though the work had been performed under contract. (40-22-27)

If the contemplated improvement consists of paving or repaving the governing body, after it has opened and considered the bids, shall determine by resolution the kind or kinds of pavement to be laid, and thereafter may rpoceed to award the necessary contract or contracts. (40-22-28)

L. Engineer's Statement of Estimated Cost Required;
Before adopting or rejecting any bid filed under the provisions of this chapter, the governing body shall require the engineer for the municipality to make a careful and detailed statement of the estimated cost of the work. If all bids are not rejected, the governing body shall award the contract to the lowest responsible bidder, upon the basis of cash payment for the work, if such bidder has furnished the certified check and bidder's bond required under the provisions of this chapter. (40-22-29) (Sample of Engineer's Statement of Estimated Cost, Appendix A, Form 7)

M. City May Enter Into Contracts;
1. Conditions and Terms of Contracts:
A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provided further:
(a.) That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
(b.) The time within which the work shall be completed;
(c.) The period of time for which the work shall be guaranteed as to workmanship, and materials;
(d.) The fund from which the contract price is to be paid by the municipality;
(e.) That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
(f.) That the municipality assumes and incurs no general liability under such contract; and
(g.) That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

The engineer acting for the municipality shall supervise and inspect the work during its progress. In addition to any rights which a municipality may have under its contract for construction of part or all of an improvement after a contract has been awarded and before work thereunder has been completed a municipality may, with the consent of the contractor and without advertising for bids, order additional work done by that contractor of the same character as that which was contracted for, whether within or without the improvement district for which the original contract was made, and upon the same terms and conditions specified in the original contract except as to time of performance, and at the same prices for the additional work: provided that the total price payable to the contractor for such additional work shall not exceed twenty percent of the amount estimated by the engineer for the municipality to be payable for that character of work under the original contract. (40-22-36)

2. Execution and Filing of Contract;
All contracts entered into for any work provided for in this chapter shall be entered into in the name of the municipality and shall be executed on the part of the municipality by the executive officer and countersigned by the auditor, who shall affix the corporate seal of the municipality. After the contract is signed by the contractor, it shall be filed in the office of the city auditor. (40-22-35)

3. Contractor's Bond Required:
Within the time fixed by the governing body for executing the contract, the successful bidder shall file with the city auditor a contract bond in a sum equal to the full amount of the contract. Such bond shall be executed by the bidder or contractor as principal and by a surety company authorized to do business in this state, or by two or more free-holders who are residents of this state, as sureties. If the contract bond is executed by individuals as sureties, such sureties must attach to the bond an affidavit of justification showing that they are worth in the aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions. (40-22-30)

4. Conditions of Contractor's Bond;
The contractor's bond shall be made payable to the municipality and shall be conditioned:
   (a.) That he well and faithfully will perform the work bid for in accordance with the terms of and within the time provided for in the contract, and pursuant to the plans and specifications for such work on file in the office of the city auditor.

(b.) That he will pay for all labor and materials used in such work;

(c.) That in case of a default on the part of the bidder or contractor in the performance of the work as provided in his contract, the sum name in the bond shall be taken and held to be fixed and liquidated in favor of the municipality and that the full amount thereof may be recovered from said bidder and his sureties in an action by the municipality against them on said bonds. (40-22-31)

5. Approval of Contractor's Bonds;
The contractor's bond shall be approved by the governing body, and thereupon it shall be and remain in full force and effect. Upon the execution of the contract and the approval of the contract bond, the bidders bond shall be returned. (40-22-32)

6. Failure to Execute Contractor's Bond;
If the successful bidder, within ten days after the acceptance of the bid or such further time as the governing body may grant, shall not execute a contractor's bond and a contract for the completion of the work described in the bid, the governing body may cause such work to be done, or it may contract with some other contractor to do or complete the work. In such case, the municipality may recover in a suit on the defaulting bidder's bond the difference between the actual cost to the municipality of such improvements and the sum which it would have cost if the defaulting bidder had complied with his bid. (40-22-33)

7. Insufficiency of Bonds -- New Bonds Required;
If the governing body, at any time, shall deem the bond of a contractor insufficient either in form or as to sureties, it may require the successful bidder or contractor to furnish, within such reasonable time as the governing body may fix, a new bond to be approved by the governing body. If the contractor shall fail, after notice, to furnish the new bond within the time required, his contract may be canceled and in that event the contractor's bond shall be liable as if the contractor had failed to perform his contract. (40-22-34)

8. Contractor shall be paid during the progress of work -- Retainage -- Failure to pay -- Rate of interest;
If the contractor to whom a contract is let properly performs the work therein designated, the governing body, at least once in each calendar month during the continuance of such contract work, shall meet, receive and consider estimates furnished by the agent, engineer or architect acting for the municipality or if not so furnished, then

by the contractor, and shall allow such estimates in an amount of the estimated value of the labor and material furnished upon such contract, and of the material then upon the ground for us in such contract, subject to retentions as follows: Ten percent of each estimate presented until such time as the project is fifty percent completed, with no further retainage on estimates during the continuance of the contract. The governing body may however, upon completion of ninety-five percent of the contract according to the estimates, pay to the contractor ninety-five percent of the amount retained from previous estimates. Any amount retained after ninety-five percent completion of the contract shall be paid to the contractor in such amounts and at such times as are approved by the municipality, upon estimates by its agent, engineer or architect or the contractor, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. The governing body, immediately after considering and allowing any such estimate, shall certify and forward the same to the city auditor or other official having the power to draw warrants who forthwith shall draw his warrant upon the proper fund and transmit the same promptly to the contractor entitled thereto. In case the governing body shall fail or neglect to receive and allow such estimate or certify any estimate or final payment upon completion and acceptance or the proper officer required to issue such warrant shall fail or neglect to issue a warrant as provided herein, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment, together with any retainage properly payable, shall draw interest from its date at the rate of six percent per annum until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate, final payment or retainage by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund from which payment for the improvements is to be made. (40-22-37)

N. City Auditor to keep complete record of improvement -- Record as evidence:
The city auditor shall keep in his office a complete record of all the proceedings taken in the matter of making any improvements under this chapter. Such record shall include all reports and confirmations thereof, all petitions, orders, appointments of commissioners, notice and proofs of publications, and resolutions of the governing body. Such record, a certified transcript thereof, or the original papers, proofs of publications, orders, or resolutions on file in such office shall be admitted in evidence in any court or place in this state without further proof as evidence of the facts therein contained. (40-22-40)

IV. Preparation of the Special Assessment List:

A. Notice to Special Assessment Commission;
At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor shall notify the chairman of the special assessment commission and shall certify to him the items of the total cost thereof so far as the same have been ascertained. The chairman immediately shall call a meeting of the commission, which shall proceed as expeditiously as possible to make and return the special assessment as provided in this chapter. The total cost of the improvement which may be certified to the assessment commission shall include the estimated construction cost under the terms of the contract, a reasonable allowance as determined by the governing body for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents' and attorneys' fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessments therefor. In the event that any error is made in estimating the cost, the governing body may direct a supplemental assessment to be made as provided in section 40-26-05. (40-23-05)

B. Assessment List to be Prepared - Contents;
The commission shall make or cause to be made a complete list of the benefits and assessments setting forth each lot or tract of land assessed, the amount each lot or tract is benefited by the improvement and the amount assessed against each. There shall be attached to the list of assessments a certificate signed by a majority of the members of the commission certifying that the same is a true and correct assessment of the property therein described to the best of their judgment, and stating the several items of expense included in the assessment. (40-23-09)

C. Publication of Assessment List and Notice of Hearing of Objections to List;
The commission shall cause the assessment list, which list shall not include the amount each lot or tract is benefited by the improvement, to be published once each week for two consecutive weeks in the official newspaper of the municipality, together with a notice of the time and the place where the commission will meet to hear objections made to any assessment by any interested party, his agent, or attorney; provided that in lieu of publication of an assessment list, if it includes more than five thousand lots or tracts, the commission may cause it to be filed and made

available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall not be less than fifteen days after the first publication of the notice. A copy of the notice shall be mailed to each public utility having property on the assessment list at least ten days before the hearing to its address shown on the tax rolls. (40-23-10)

D. Alteration of Assessments at Hearing;
At the hearing, the commission may make such alterations in the assessments as in its opinion may be just or necessary to correct any error in the assessment list. The commission may increase or diminish any assessment as may be just and necessary to make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which assessments are made, or the part of such costs to be paid by special assessment. No assessment shall exceed the benefits as determined by the commission to the parcel of land assessed. (40-23-11)

E. Confirmation of Assessment List After Hearing;
The special assessment commission, after the hearing, shall confirm the list and attach thereto its further certificate certifying that the list is correct as confirmed by it. The commission thereafter shall file the assessment list in the office of the city auditor. (40-23-12)

F. Publication of Notice of Confirmation of Assessment List;
The city auditor shall publish at least once in the official newspaper of the municipality a notice stating that the assessment list has been confirmed by the special assessment commission and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the governing body will act upon such assessment list. The assessment list shall be acted upon by the governing body at a regular or special meeting occurring more than fifteen days after the publication of such notice. (40-23-13)
(Sample notice found in Appendix A; Form 8)

G. Aggrieved Person May File Notice of Appeal;
1. Prior to the meeting at which the governing body will act upon the assessment, any aggrieved person may appeal from the action of the special assessment commission by filing with the city auditor a written notice of the appeal, stating therein the grounds upon which the appeal is based. (40-23-14)

2. Right to Appeal;
Even though railroad did not appear or file objection either before or at hearing by special assessment commission, the railroad was not estopped to appeal from determination of commission; the right of appeal is not conditioned upon appearance before the commission. Soo Line R. Co. v. City of Wilton, 172 NW 2d 74. (40-23-14) (Annotation)

H. Hearing of Appeals and Objections to Assessments;
At the regular meeting of the governing body at which the assessment list is to be acted upon, any person aggrieved by the determination of the special assessment commission in regard to any assessment who has appealed therefrom as provided in section 40-23-14 may appear before the governing body and present his reasons why the action of the commission should not be confirmed. The governing body shall hear and determine the appeals and objections and may increase or diminish any of such assessments as it may deem just, except that the aggregate amount of all the assessments returned by the commission shall not be changed and no assessments as adjusted shall exceed the benefits to the parcel of land on which it is assessed as determined by the assessment commission. (40-23-15)

I. Confirmation of Assessment List by Governing Body:
The governing body shall confirm the assessment list, and the city auditor shall attach to the list his certificate that the same is correct as confirmed by the governing body, and thereupon shall file the list in his office. (40-23-16) (Appendix A, Form 9, Resolution Confirming Special Assessment)

J. City Auditor Shall Certify Assessments to the County Auditor;
Annually, the city auditor shall certify to the county auditor all uncertified installments of assessments which are to be extended upon the tax lists of the municipality for the current year, in the manner provided in section 40-24-12. (40-24-11)

K. City Auditor Shall Insert Amount of Improvements in County Real Estate Book on Other Forms;
The city auditor shall notify the county auditor not later than August twentieth in each year of any special assessments which were made in the municipality in addition to those reported in the previous year. The county auditor shall make and deliver to the city auditor on or before September twentieth each year, a copy of the real estate assessment book or other forms for the current year covering all additions in which any special assessments have existed and where any will appear for the current year as advised by the city auditor. The city auditor shall insert in the proper columns under the appropriate headings the amount of each of the installments of the assessments on the lots or subdivisions of lots or tracts of land which are to be extended upon the tax lists of the municipality for the current year. The city auditor shall show the total amount of special assessments certified to the county auditor for the current year. In cases where a division of property has been made since the original assessment, the city auditor shall make or cause to be made with the assistance and advice of the special assessment commission, the proper division of the special assessments on the lots or tracts of land as the same are divided and assessed for the general taxes as furnished by the county auditor. The city auditor shall certify the special assessments to the county auditor by November first of each year. (40-24-12)

L. Special Assessments - When Due and Payable:
All special assessments levied under the provisions of this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at a rate of not exceeding eight percent per annum or not exceeding the average net annual interest rate on any warrants or bonds for the payment of which they are pledged, whichever is higher, on the total amount thereof remaining from time to time upaid. (40-24-02)

M. Assessments for Parking Improvements;
for any improvement consisting of acquiring or leasing of property and easements and construction of parking lots, ramps, garages, and other facilities for motor vehicles, whether constructed pursuant to chapter 40-22, 40-60, 40-61, or other law authorizing a municipality to acquire facilities used and usable in connection with the parking and storing of motor vehicles, the governing body of the municipality, on or before October first in any year, may cancel all installments of special assessments theretofore levied for such facilities which are due and payable in the following year and all subsequent years, and may levy a new assessment for such facility in accordance with the law authorizing the initial levy of special assessments therefor, except that the amount to be newly assessed shall not exceed the total principal amount of the installments of assessments so canceled. The new assessment shall follow the same district lines as the original assessment district, and the same method of assessment shall be used as was used in the original assessment. If the new assessment causes any prepaid payment to be refunded, the refund plus four and one-half percent interest per annum on the refunded prepaid payment shall be paid to the person or corporation who prepaid the original assessment. In determining the special benefit and levying the new assessment against any lot or parcel, the previous determination of special benefit in any previous proceeding shall not be binding upon the assessment commission or governing body, but the new assessment levied on any lot or parcel, together with the principal amount of the installments of special assessments previously paid or to be paid in the current year for that lot or parcel with respect to that facility to be assessed, if any, shall not exceed the total special benefit to the lot or parcel from the facility for which the assessment is levied. In levying new assessments pursuant to this authority, an assessment commission and governing body of a municipality may take into account any changes in conditions affecting the benefits derived and to be derived from the improvement for which the assessments were initially levied against the respective properties assessed. Provided, however, that in canceling any special assessments previously levied and in levying new special assessments, a municipality cannot violate any covenants or agreements which it has made with holders of any obligations issued by the municipality to finance the acquisition of that improvement.

V. Procedure for Service Connections; Sidewalks; Curbs and Gutters, Boulevards and Street Lighting System Assessments:

A. Service Connections Assessment;

1. Notice to Owner or Occupant to Construct Service Connection Pipes;
Upon the adoption of the resolution as provided in section 40-28-01, the city auditor shall publish in the official municipal newspaper once each week for two successive weeks a notice to the owners or occupants of the property involved stating what work is to be done and the time within which it is to be completed. The notice may be general as to the owners but shall be specific as to the descriptions of the lots or parcels of land in front, along the side, or in the rear of which the improvement is to be made and which the improvement affects. (40-28-02)

2. Municipality May Contract Work When Property Owner Fails to Make Service Connections as Required:
If the connection with the sewer, main, wire, or conduit is not made by the owner of the property within the time specified in the notice given by the city auditor, the governing body shall order such work done by such person as it may contract with therefor at the expense of the lot or parcel of land adjoining each improvement or service connection. Such work shall be done under the supervision of the engineer acting for the municipality. The expense of making such connection, including the expense of giving all notices relating thereto, of making the assessments therefor, and of any other nature, shall be assessed by the engineer against the lot or parcel of land properly chargeable therewith, and the assessment list shall be filed in the office of the city auditor. The city auditor shall cause such list, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the municipality at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered. (40-28-03)

3. Certification of Assessment;
Assessments for improvements made under the provision of this chapter shall be paid in equal payments extending over a period of not less than one year nor more than five years, as the governing body of the municipality may determine. Such assessments as may be approved by the governing body shall be certified by the city auditor to the county treasurer for collection, and such assessments shall be collected in the same manner as special assessments are collected. (40-28-04)

4. City Auditor Shall Advertise for Bids;
The governing body shall direct the city auditor to advertise for bids for the laying and construction of service connections in accordance with the plans and specifications therefor. Each bid shall be accompanied by a certified check in the amount of five hundred dollars to guarantee the entering into the contract if the contract is awarded to him. Bids shall be received by the governing body. The governing body may reject any or all bids for work on service connections and may readvertise for other bids. If all bids are not rejected, the contract shall be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment for the work if such bidder has complied with all the requirements of this chapter, and furnished the required bond. Upon the awarding of the contract, the checks of all unsuccessful bidders shall be returned to them. (40-28-07)

5. Contracts for Making Service Connections;
A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

(a.) That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a re-construction of the work as to any part thereof improperly done;

(b.) The time within which the work shall be completed;

(c.) The period of time for which the work shall be guaranteed as to workmanship and materials;

(d.) The fund from which the contract price is to be paid by the municipality;

(e.) That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;

(f.) That the municipality assumes and incurs no general liability under such contract; and

(g.) That failure of the engineer to reject work and material which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

Such contract shall be entered into in the name of the municipality and executed on its behalf by its executive officer and countersigned by its auditor, and the seal of

the municipality affixed therto. When the contract has been signed by the contractor, it shall be filed in the office of the city auditor. The engineer acting for the municipality shall supervise and inspect the work during its progress. (40-28-09)

B. Sidewalks Assessment;

1. Except as otherwise provided in this chapter, if the governing body deems it necessary to construct, rebuild, or repair any sidewalk in the municipality, it shall notify each owner of record at last address shown in the office of the register of deeds or the county treasurer or occupant of any lot or parcel of land adjoining the sidewalk to construct, rebuild, or repair the same at his own expense and subject to the approval of the street commissioner or city engineer, within the time designated in the notice. The notice shall be directed in the manner hereinbefore provided to the owner of record or occupant and shall set forth what work is to be done, the character of the same as specified in the ordinance, and the time within which he is required to do the work. The work shall be done to the satisfaction of the street commissioner or city engineer. The notice may be general as to the owner of record or occupant but shall be specific as to the description of the lot or parcel of ground adjacent to where the sidewalk is to be built or repaired. The street commissioner or city engineer shall serve such notice by certified mail or delivering a copy thereof to the occupant or owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the dwelling house upon such lot or parcel years residing therein. If any lot or parcel of land is not occupied and service by mail is deemed impractical, the commissioner or city engineer may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner or city engineer, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund. (40-29-03) (Sample Notice to build Sidewalks, in Appendix A, Form 10)

2. City Auditor Shall Publish Assessment List and Time and Place of Assessment Meeting;
The expense of constructing, repairing, or rebuilding

sidewalks shall be assessed against the lots or parcels of land properly chargeable therewith, by the city engineer or by the street commissioner in cities having no city engineer, who shall return the assessment and file it in the office of the city auditor. The city auditor shall cause such assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered. (40-29-05)

3. City Auditor Shall Advertise for Bids:
The city auditor shall advertise in the official municipal newspaper once each week for two consecutive weeks for bids for the construction of the various kinds of sidewalks in the municipality. The bids shall be made in accordance with the specifications of the ordinance required by section 40-29-01 and shall be accompanied by a certified check in the amount of fifty dollars in accordance with section 40-22-20, and by a bond in the amount of five hundred dollards conditioned as provided in section 40-22-23. (40-29-07)

4. City Auditor to Deliver Assessment Rolls to County Auditor:
The city auditor shall deliver to the county auditor a duplicate of all assessment rolls containing assessments made under the provisions of this chapter and the county auditor shall extend the assessments in the proper column against the property assessed. Each assessment shall be collected and the payment thereof enforced as county and state taxes are collected and enforced. When collected, the assessment shall be paid over by the county treasurer to the municipal treasurer in the same manner as other taxes. (40-29-09)

5. City Auditor Shall Keep a "Sidewalk Assessment Book":
The city auditor shall keep in his office a book called "sidewalk assessment book" and shall enter therein the cost certified by the street commissioner or the governing body as an assessment against the lots or parcels of land adjoining any sidewalk constructed, repaired, or rebuilt under the provisions of this chapter, and the name of the owners of such lots or parcels of land, if the same are known to him. The governing body shall review all assessments and hear all complaints against the same and approve the same as finally adjusted. (40-29-10)

6. City Auditor Shall Give Notice of Meeting of Governing Body to Confirm Snow and Ice Removal Report and Assessment:
The city auditor shall give notice of the hearing and confirmation of the report of snow and ice removal and of the assessment therefor at the regular June meeting of the governing body. Such notice shall notify all persons objecting to the report and assessment to appear and present

their objections. The notice shall be published once each week for two consecutive weeks in the official municipal newspaper and the last publication shall not be less than eight days before the date set for the hearing. (40-29-19)

C. Curbs and Gutters Assessment:

1. City Auditor Shall Publish Notice of Curbing Assessments and Meeting Time and Place:
The curbing in the city shall be built, repaired, or rebuilt in the manner and within the time prescribed by the governing body, which shall order the work to be done by such person as it may have contracted with therefor, under the direction of the city engineer, or street commissioner, if the city has no city engineer, at the expense of the lot or parcel of land fronting on or adjoining such curbing. Such expense, including the expense of all notices in connection with such work, the assessment therefor, and any other expense incurred for such work, shall be assessed by the city engineer, or by the street commissioner if the city has no engineer, against the lot or parcel of land properly chargeable therewith. Such assessment shall be returned by the engineer or commissioner and filed in the office of the city auditor, and the city auditor shall cause the assessment, together with a notice of the time when and place where the governing body will meet to consider the approval of the same, to be published once in the official newspaper of the city at least ten days prior to the meeting of the governing body to consider the approval of the assessment. (40-31-02)

2. City Auditor Shall Advertise for Curbing Contracts:
At least once every year that the city plans to construct or repair curbing or gutters, the city auditor shall advertise in the official newspaper of the city once each week for two consecutive weeks for bids for the construction of the various kinds of curbing in the city during the ensuing year. The bids shall be made in accordance with the plans and specifications set out in the resolution or ordinance provided for in section 40-31-01 At a regular meeting of the governing body the bids shall be received and opened and if accompanied by the requisite check, or check and bond, as required by the resolution of the governing body, the contract shall be awarded to the lowest responsible bidder. Contracts may be awarded to different bidders for the different kinds of curbing required. (40-31-04)

3. City Auditor Shall Keep a Curbing Repair Assessment Book: The city auditor shall keep in his office a curbing repair assessment book and shall enter therein curbing costs certified by the street commissioner as an assessment against the lots or parcels of land fronting on or adjoining such curbing, and the name of the owner of such lots or parcels of land if known to him. At a regular meeting, the governing body shall review all assessments and hear all complaints against the same and approve the same as finally adjusted. The city auditor shall deliver to the county auditor a duplicate of all assessment rolls containing assessments made under the provisions of this chapter, and the county auditor shall extend the assessments in the proper column against the property assessed. Each assessment shall be collected and the payment thereof enforced as county and state taxes are collected and enforced. When collected, the assessment shall be paid over by the county treasurer to the municipal treasurer in the same manner as other taxes. (40-31-06)

D. Boulevards Assessment:

1. City Auditor Shall Keep a "Boulevard Assessment Book": The city auditor shall keep in his office a book called "boulevard assessment book" and shall enter therein any assessment certified by the street commissioner as an assessment against the lots or parcels of land adjoining the improvements made under the provisions of this chapter and the names of the owners of such lots or parcels of land if the same are known to him. At a regular meeting in October of each year, the governing body shall review all assessments and hear all complaints against the same and approve the assessments as finally adjusted. (40-32-08)
2. Procedure for Letting Contracts: The governing body may let a contract for the making of any or all improvements to be made within the city under this chapter in each year, or, if it is deemed advisable it may let a contract for the making of each specific improvement as the same may be determined upon. Whether the contract to be let is general or special, it shall be let in the manner prescribed in chapter 40-29 for the letting of contracts for sidewalks in cities in so far as the provisions of such chapter are applicable. (40-32-07)
3. City Auditor Shall Publish Notice of Assessment and Meeting Time and Place: The expense of the improvement shall be assessed by the street commissioner against the lots or parcels of land properly chargeable therewith, and such assessment shall be returned by the street commissioner and filed in the city auditor's office. The city auditor shall cause such

assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered. (40-32-06)

E. Street Lighting System Assessment:
Whenever the governing body of any city shall deem it necessary to install, construct, alter, or extend, upon any of the streets of the city, a special system or special systems of street lighting such governing body may direct the city engineer or such other person as shall be designated, by motion or resolution to prepare plans and specifications for such work to make an estimate of the probable cost. Such plans, specifications and estimates shall be approved by resolution of the governing body and filed in the office of the city auditor. The city auditor thereupon shall publish in the official newspaper of the city once each week for three successive weeks a notice stating that such plans, specifications and estimates have been approved and filed in his office and are open to public inspection. If the owners of a majority of the property abutting on any street or streets where such lighting system is to be installed shall not protest against the lighting system or improvement within ten days after the last publication of such notice, the majority of such owners shall be deemed to have consented thereto, and the city may proceed to provide for the construction of the improvement and to assess the cost thereof, or such part thereof as the governing body shall deem proper, against the abutting property in the manner and with the notice and according to the forms and procedure provided in this title for the construction and assessment of street paving. (40-30-02)

Chapter V

MUNICIPAL BUDGETS

This chapter outlines the various steps in the preparation of a municipal budget, and the determination and certification of tax levies to the county auditor. Included are the statuatory requirements for a Board of Budget Review, the development of a preliminary budget, adoption of a municipal budget, and determination of tax levies.

A. Board of Budget Review:

1. Required in Certain Municipalities - How Constructed:
Every municipality in this state, except townships, shall have a board of budget review. The board shall consist of seven members and shall be constituted as follows:
   (a.) Two members from the governing body of the municipality;
   (b.) Two members from the local school board;
   (c.) One member from the park board; and
   (d.) Two members representing the public at large.

If the municipality has no park board, three members shall represent the public at large. In cases where a member of a board of budget review is not a resident of the governmental subdivision submitting a budget or bond issue for consideration, such member shall not vote upon the question submitted. In the event the remaining members constitute an even number the chairman shall not vote. (40-41-01).

2. Appointments to Board - Certification to City Auditor - Failure of Local Boards to Appoint Members:
On or before the fifteenth day of July of each year, the governing body of each municipality, school board, and park board mentioned in section 40-41-01 shall appoint its representatives to serve on the board of budget review for the current year. The appointments shall be certified to the city auditor. The auditor shall notify each governing body failing to certify its appointments that the board of budget review will meet for the purpose of organization and the appointment of members at large, giving the time and place of such meeting, and that unless such governing body shall certify the appointment of its representatives on the board on or before the date of the organization meeting, it will be without representation on the board for the current year. (40-41-02)

3. Organization Meeting;
The representatives of the local boards shall meet on the day appointed by the city auditor, which shall not be later than July twentieth, and shall organize by electing a chairman and vice-chairman. The city auditor shall serve as a clerk of the board of budget review. Such representatives shall appoint the members at large from the resident free-holders of the municipality or school district. All members shall serve without compensation. Before entering upon the duties of his office, each member shall take, subscribe and file with the city auditor the oath required of civil officers. Vacancies on the boards shall be filled in the manner in which the original appointment was made. (40-41-03)

B. Preliminary Budget;
1. Municipality to Prepare Preliminary Budget Statement;
The governing body of each municipality, annually between July first and July twenty-fifth shall make, on suitable blanks prescribed by the state tax commissioner, an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the fiscal year, and giving such other information relating to finances of the municipality as the tax commissioner may require. (40-40-04)

2. Contents of Preliminary Budget Statement;
The preliminary budget shall set forth specifically;
(a.) The detailed expenses of the municipality for the last fiscal year;
(b.) The estimated expenditures for the current fiscal year, segregated and itemized under three groups as follows:
(1.) Group A shall cover all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenses of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there shall be on file with the

governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Municipalities may also include as items of expense the following, which shall be placed in separate funds.

a.) Equipment replacement: Such amount shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, on all equipment owned by the city and no expenditure shall be paid out of said equipment replacement fund except for the purchase of equipment to replace equipment which is worn out, damaged or obsolete. The term "equipment" shall not include structures or building fixtures.

b.) Snow removal reserve: Such amount shall not exceed the total of the anticipated reasonable costs of snow removal for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of the removal reserve fund except for the removal of snow from the public streets or ways.

c.) Flood control reserve: Such amount shall not exceed the total of the anticipated reasonable costs of flood control for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of said flood control reserve fund except for the actual costs of flood prevention and control.

(2.) Group B shall cover all capital and betterment expenditures, including new construction, major repairs, and all other items which go toward adding to the permanent improvement and value of the municipal property and may include an item which shall be placed in a separate fund as a building reserve. The building reserve fund item shall not exeed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on original costs on all buildings and structures owned by the city, and no expenditures shall be paid out of the said fund except for purchase, construction, or reconstruction to replace buildings or structures which are obsolete, substandard, or generally unfit for public use.

(3.) Group C shall cover all debt retirement requirements including all amounts required to retire floating indebtedness, bonded indebtedness, and to pay interest thereon during the current fiscal year, and also a statement showing the amounts and terms of bond issues, certificates of indebtedness, and warrants or other debts to be taken care of by the levies for debts retirement;

(c.) The cash balance standing to the debit or credit of the municipality at the end of the last fiscal year;

(d.) An estimate of the probable amounts that may be received during the current fiscal year from sources other than direct property taxes, and a statement of all the uncollected taxes due to the municipality. In addition to the specific sums provided for under groups A and B, the governing body may include in group A, and may appropriate for contigent expenses not otherwise provided for, a sum not exceeding five percent of the total amount of the sums set forth in groups A and B. (40-40-05)

3. Notice of Preliminary Budget Statement - Contents -How Given: After the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:

(a.) The preliminary budget is on file in the office of the auditor and that such budget may be examined by anyone requesting to do so;

(b.) The governing body will meet on the first Wednesday in August at a time and place specified in the notice for the purpose of adopting the final budget and making the annual tax levy; and;

(c.) The governing body will hold a public session at such time and place at which any taxpayer may appear and discuss with such body any item of proposed expenditures or may object to any item thereof or to the amount of any such item.

The notice shall contain a statement of the total proposed expenditures under each group provided for in the preliminary budget and of the total proposed expenditures under all such groups, but need not contain any detailed statement of the proposed expenditures. Such notice shall be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, the notice shall be published not less than six days prior to such meeting in the official county newspaper. (40-40-06)

4. Local Board to Submit Preliminary Budget to Board of Budget Review for Examination: The governing body of the municipality, the school board, and the park board, if there is one, shall submit to the board of budget review its annual preliminary budget before it finally is adopted. The board of budget review shall review and examine in detail the items of each preliminary budget submitted to it by such local boards and shall certify its approval, disapproval, or modification thereof before the time provided in chapter 40-40 for the final adoption of the budgets. Whenever under the provisions of this chapter a budget or bond issue would have to be submitted to more than one board of budget review such boards of budget review shall combine and sit as one body to pass upon such budget or bond issue and shall be known as the board of budget review for the governmental subdivision proposing such budget or bond issue. Such combined board of budget review shall elect a chairman and a secretary from its combined membership but the chairman shall not vote except in the case of a tie. (40-41-04)

5. Notice of Hearings on Preliminary Budget: The board of budget review shall allow a public hearing on each preliminary budget and on each proposed bond issued submitted to it and for review. Public notice of the time and the place of any such hearing shall be given by the board. The board shall keep a record of all its proceedings, and such record shall be preserved in the office of the city auditor and shall be open to the inspection of

the taxpayers of the municipality. The expenses of such board shall be paid by the municipality. (40-41-07)

6. Action Taken on Preliminary Budgets by the Board:
The board of budget review may approve or disapprove any item in any of the preliminary budgets and may lower but not raise any such item or items or the total of any such budget. The action of the board of budget review on any preliminary budget shall be final. Interviewing the preliminary budgets, the board shall take into consideration the combined totals of all the budgets submitted by the taxing districts and the probable total tax levies within the municipality, so far as the same can be determined, including levies for sinking funds and interest on bonds, the total combined bonded in indebtedness of the taxing districts, and the total warrants, certificates of indebtness and other obligations outstanding. Before approving the preliminary budgets, the board shall have due regard for the combined tax levies which shall result from the approval thereof, and shall exercise its supervisory authority in such manner as to protect the taxpayers of the municipality from an undue burden of property taxes. The action of the board of budget review on the budget of each taxing district shall be certified to the county auditor before the tax levy for each such taxing district shall be spread, and he shall not spread such tax levies until he has received such certificate. (40-41-05)

7. Changings in Preliminary Budget - Hearings of Protests and Objections Preparation of Final Budget:
The governing body shall meet at the time and place specified in the notice and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the governing body shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall prepare the final budget, which shall consist of the preliminary budget with the addition of columns showing:
   (a.) The final appropriations made on account of the various items of expenditures specified in the preliminary budget statement but the final appropriation, as to any group total, shall not exceed the amount specified in the preliminary budget estimates;
   (b.) The amount of unencumbered cash on hand, which amount shall not include cash or investments of the equipment replacement fund as provided for in section 40-40-05;

(c.) The amount of uncollected taxes standing to the credit of the municipality which, the opinion of the governing body, may be collected during the ensuing fiscal year;

(d.) The estimated income that may be received during the ensuing year from sources other than direct property taxes;

(e.) The net amount which it will be necessary to provide net amount of revenue during the fiscal year. (40-40-08)

C. Determination of Amount to be Levied:
After completing the final budget on the first Wednesday in August, or within ten days thereafter, the governing body shall proceed to make the annual tax levy in an amount sufficient to meet the expenses of the current fiscal year as determined at the budget meeting. In determining the amount required to be levied, the governing body first shall ascertain its net current resources by adding together the totals shown in the columns described in subsections 2, 3, and 4 of section 40-40-08. Such total amount shall be considered net current resources of the district. The net current resources shall be deducted from the total amount estimated to be appropriated, and the balance shall be considered the amount which is required to be raised by taxation during the ensuing year. The net amount which is to be levied then shall be determined by taking into consideration the fact that the laws of this state provide for the semiannual payment of real estate taxes and that consequently only a part of the amount levied can be collected within the current fiscal year. The determination of the amount of the levy which can be collected within the current fiscal year shall be made by the governing body based upon the past experience of the district. The levy as finally fixed shall be adopted in the form of an ordinance termed the annual appropriation bill by a majority vote of the members of the governing body. The amount levied shall be subject to such limitations as are prescribed by the laws of this state, and shall be subject to the further limitation that such amount shall not exceed the amount which will produce the funds required by the municipality within the fiscal year period for which the levy is being made. Such ordinance shall appropriate in specific amounts the sums of money necessary to meet the expenses and liabilities of the municipality. (40-40-09)

D. Certified Copies of Levy and Final Budget Sent to County Auditor:
Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than September fifteenth, the auditor of the municipality shall send to the county auditor two certified copies of the levy as adopted and two certified copies of

the final budget. (40-40-10)

E. City Auditor Aids in Crediting Taxes to Appropriate Funds:
The treasurer and auditor of the municipality each shall apportion the amounts received for taxes from the county treasurer and shall credit each fund with its proportion of share according to the levy made by the governing body of the municipality. The county treasurer, at the time of paying over such funds, shall furnish the treasurer or the auditor of the municipality with a statement of the amount collected for each year separately, and such amount shall be credited to the proper funds for the year for which it was collected. (40-40-14)

F. Liabilities May Be Incurred After July 1st Before a New Appropriation is Made - Exception:
After July first and before the regular appropriations have been made by the governing body of the municipality, such governing body and the other officials of the municipality who are authorized to incur liabilities payable by the municipality may incur liability at a rate of expenditure not in excess of that authorized for the same purpose in the preceding year. Payments thereof may be made from any unappropriate balance in the treasury to be charged to the regular annual appropriation when made. No new nor unusual expense shall be incurred nor permanent contract made nor salary increased until an appropriation therefor has been made the governing body of the municipality.
(40-40-19)

Chapter VI

CITY ELECTIONS

This chapter outlines the duties of city auditors in regards to elections. Included within are the statutes regarding time of elections, giving notice of elections, printing of ballots, canvassing, certificates of election, and absentee voters.

I. Primary, General and Special Elections;
Elections generally are governed by Title 16 of the North Dakota Century Code. Although the city auditor has no designated duties with regard to these elections the following references to the statutes may prove useful.

A. Establishing Precincts;

1. Board of County Commissioners may Divide County into Precincts -- Combine Cities with Townships under Certain Conditions -- Preservation of Boundaries -- Number of Electors -- When may redivide, annex, vacate or combine voting precincts -- Election inspectors designated;
The board of county commissioners may divide the county into precincts and establish the boundaries of the same except that within the boundaries of incorporated cities the governing body of such cities shall divide the cities into precincts and establish their boundaries pursuant to the provisions of title 40.

The entirety of civil townships or cities shall be preserved as precincts except when such preservation would be in conflict with the provisions of this chapter. In such case, the civil township or city, except as provided in this chapter, shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships, or part of a township and of a city, except as provided in this chapter. No precinct in which voting machines are not used shall contain more than five-hundred electors.
It is further provided that the board of county commissioners may redivide the county into precincts, annex an existing precinct to another existing precinct, or combine two or more existing precincts one to another when:

(a.) A petition signed by seventy percent of the electors residing within an existing precinct is presented requesting such existing precinct to be annexed to and become a part of another existing precinct;

(b.) In the board's discretion, prompted by inaccessibility of polling places, difficulty in obtaining election boards, or economic infeasibility, an

existing precinct may be annexed to and become a part of another existing precinct; or

(c.) The board of county commissioners may combine in their entirety two or more adjoining civil townships into one voting precinct with a common polling place for all elections other than township or school district elections or as otherwise provided by this chapter.

In the case of precincts which are combined, the board of county commissioners shall designate the person to be the inspector of elections of the new voting precinct. In the case where one precinct is annexed to another, the inspector of elections of the annexing precinct shall be the inspector of elections for the new precinct.

Notwithstanding other provisions of law, and for the purpose of statewide elections and the election of precinct committeemen, the county commissioners shall have the further authority to combine a city with an adjacent civil township, which wholly or partially encompasses such city, into one voting precinct, when the votes cast in the city for governor in the preceding election were less than three hundred and the total vote for governor at the previous election of the city and township to be combined would not exceed three-hundred votes. If a city is partially encompassed by more than one civil township, the county commissioners shall select the civil township which will be combined with the city by taking into account accessibility of roads, trade area and compactness.

The county commissioners shall appoint the inspector for such combined voting precinct. The judges and clerks shall be appointed as otherwise provided by law.

If the vote in the combined voting precincts at a later date exceeds four hundred and upon request of the city governing body, the board of county commissioners shall restore the city to a separate voting precinct. (16-09-01)

2. Precincts in incorporated cities may be divided into two precincts;
If more than three hundred votes are cast in any precinct in any incorporated city, the governing body of such city may divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible and shall notify the county auditor of such division. (16-09-02)

3. Precinct shall be divided into two precincts when more than five hundred votes cast in precinct;
If more than five hundred votes are cast in any election in a precinct in which voting machines are not used, the inspector of such precinct shall report such fact to the board of county commissioners, or, if the precinct is in

an incorporated city, to the governing body thereof, and such board or body at its next regular meeting shall divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible and shall notify the county auditor of such division.

B. Election Officers;

1. Inspector of elections in council cities -- Appointment-- Candidate disqualified;
In cities operating under the council form of government the city council shall appoint the inspectors of election. Such inspectors shall be appointed no later than twenty-one days prior to an election except in the case of a special election where time does not allow for such early appointment. Any alderman who is not a candidate for election may be appointed an inspector of elections for the precinct in which he resides. The city council shall, within twenty-four hours, notify the county auditor of the appointment of the inspectors. (16-10-04)

2. Inspector of elections in commission cities;
In cities operating under the commission system of government, the board of city commissioners shall appoint, no later than twenty-one days prior to an election except in the case of special elections where time does not allow for such early appointment, an inspector of elections for each precinct within the corporate limits of such city and shall within twenty-four hours, notify the county auditor of such appointments. (16-10-06)

3. Precinct committeeman to serve as judge of elections;
The precinct committeeman receiving the largest vote at the last election of each of the two parties which cast the largest number of votes in the state at the last general election shall serve as judges of election for their precinct. If for any reason a precinct committeeman does not wish to serve as judge of election, he shall appoint from his precinct a member of his party to serve as judge of election. Should such appointment not be made, the position shall be filled by the district chairman. Each judge of election shall be given a certificate of appointment signed by the chairman of the district committee of his party. The chairman of the district committee of the two political parties shall notify the county auditor of the counties in which the precincts are located of the appointment of the judges of election at least two weeks prior to the primary, general, or special election. If such notice is not received within the time specified in this section, the inspector of election shall appoint the judge no later than one week prior to the election. (16-10-08)

4. Poll clerks and additional poll clerks -- Appointment -- Duties -- Qualifications -- Oaths -- Compensation;
The judge of the election representing the two parties which cast the largest number of votes in the state at the last general election shall each appoint as a poll clerk a qualified elector of the precinct, who is a member of the same party making the appointment. In voting precincts or districts in which over three hundred votes are cast in any election, such judge of the election may appoint an additional poll clerk who shall assume their duties at the time of the closing of the polls and shall assist the regular board in the opening, counting, and telling of ballots. Such additional poll clerks shall have the same qualifications and shall subscribe to the same oath as the regular poll clerks and shall receive as compensation for their services the sum of six dollars each to be paid in the same manner as regular poll clerks are paid. (16-10-12)

5. Voting machines -- Additional poll clerks;
All election precincts having voting machines as authorized in chapter 16-21 may in addition to all other authorized poll clerks, have at least two additional poll clerks whose duties it shall be to assist any voter in the operation of the voting machine. Such additional poll clerks shall be from each of the two political parties which cast the largest vote at the last general election, and any assistance given to any voter shall be in the presence of a poll clerk from each of the above-mentioned political parties. Such additional poll clerks shall have the same qualifications and shall subscribe to the same oath as the regular clerks and shall receive as compensation for their services such sum as is provided in section 16-10-16, to be paid in the same manner as regular poll clerks are paid. The poll clerks, or other proper election officials, shall, pursuant to regulations promulgated by the secretary of state, provide that when a voting machine is used by persons between eighteen and twenty-one years of age it shall only register votes cast for candidates for elected federal office. (16-10-12.1)

II. Municipal Elections (General);
A. Time of Elections -- Notice -- Polls -- Judges and Inspectors;
1. Commission Cities;
Biennial municipal electionsin cities operating under the commission system of government shall be held on the first Tuesday in April in each even-numbered year at such place or places as the board of city commissioners shall designate. Ten days' notice of the time and place of the election and of the offices to be filled at such election shall be given by the city auditor by publication in the official newspaper of the city or if the city has no official newspaper, by publication in the official

county newspaper. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general, and special elections. For all general city elections, the board of city commissioners shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges of election for each precinct at least ten days before the election is held. For special city elections the board of city commissioners shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held. Each precinct election judge, in either a general or a special city election, shall appoint a poll clerk who shall be a qualified elector of the precinct in which he is to serve. (40-21-02)

2. Council Cities;
Biennial municipal elections in cities operating under the council form of government shall be held on the first Tuesday in April in each even-numbered year at such place or places as the city council shall designate. In cities where aldermen are elected at large, the council shall designate one polling place only. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general and special elections. Ten days' notice of the time and place of holding each election and of the offices to be filled thereat shall be given by the city auditor by publication in at least two newspapers published in said city if two are published therein. Publication in one such newspaper shall be sufficient if only one newspaper is published in the city. For all general city elections the city council shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges and two clerks of election for each precinct at least ten days before the election is held. For special city elections the city council shall appoint one inspector, two clerks and two judges of election for each precinct in the city at least ten days before the election is held. (40-21-03) (Refer to Sample in Appendix B, Form 1)

3. Compensation of Inspectors, Judges, and Clerks;
Each inspector, judge, or clerk of any regular or special municipal election, for services performed at such election, shall receive as compensation therefor the sum of twelve dollars. When the number of votes cast at such election exceeds one hundred, each such officer shall receive as additional compensation the sum of two dollars for each additional one hundred votes cast, or major fraction thereof, bu not more than twenty-five dollars in all for such services. (40-21-05)

B. Petition for nomination of elective official;
A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least thirty-three days and before four o'clock p.m. on the thirty-third day prior to the holding of the election a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. Signers of a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the electors at large residing within the city. If a petition is mailed it shall be in the possession of the city auditor before four o'clock p.m. on the thirty-third day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of such petition shall add to his name his mailing address. (40-21-07)

C. Ballots;

1. Make-up;
The auditor of the city shall place only the names of the persons nominated upon the ballot. Opposite or immediately below the name of each candidate on the ballot shall be placed that statement, in not more than twenty words, of the principle or principles which he seeks to promote. Such statement shall be set forth in the manner in which it appeared in the petition or petitions filed by or on behalf of such candidate, and in such manner as readily to inform the voter of the policy or policies upon which such candidate seeks election. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The arrangement of the names of the candidates upon the ballot shall be determined by lot by such auditor in the presence of the candidates or their representatives at noon on the day following the last day for the filing of the nomination papers. (40-21-08)

2. Form and quality of ballots generally;
All official ballots prepared under the provisions of this title for use in precincts in which voting machines are not used:

(a.) Shall be a specified color, and the secretary of state shall prescribe a different color for each separate type of ballot used.

(b.) Shall be of uniform quality of paper printed in a color of ink suitable to make the ballot clearly legible.

(c.) Shall be of sufficient length to contain all the names of the candidates to be voted for at such election.

(d.) Where more than one person is to be elected to an office, immediately under the designation of the office to be voted for, shall have printed thereon the following words: "Vote for (number) name only".

(e.) Shall have printed thereon "Mark X after name to be voted for".

(f.) Under the name of each candidate there shall be left sufficient space to write or paste a name in lieu of the one printed on the ballot.

(g.) On the same line with the name of each candidate and at the end of his name there shall be a space enclosed in a square in which the voter may designate by a cross or other mark his choice for each candidate opposite the name of such candidate.

In precincts in which voting machines are used, the list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form approximating as far as possible the requirements of this section. (16-11-04)

3. Distribution;
The distribution of ballots and other election supplies should be made following procedures included in NDCC sections 16-11-10 and 16-11-11 as amended.

D. Conduct of Election;
The manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections, and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots may be used in municipal elections in accordance with the provisions of chapter 16-18, as amended. (40-21-13)

E. Notice of Election;
The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his election or appointment. (40-21-14) (Refer to Samples in Appendix B, Form 2 & 3)

F. Oaths of Municipal Officers;
Every person elected or appointed to any municipal office, before he enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers, and, except in the case of the treasurer and auditor, shall file the same with the city auditor within ten days after notice of his election or appointment has been given. The oath of the municipal treasurer

and of the auditor shall be filed in the office of the auditor of the county in which the municipality is located. (40-13-03) (Refer to Sample in Appendix B, Form 4)

III. Special Municipal Elections;
Special municipal elections to file vacancies or any other purpose shall be held and conducted by the inspectors and judges of election of the several precincts in the same manner and the returns shall be made in the same form and manner as at regular municipal elections. (40-21-16)

IV. Absentee Voters;
As provided by NDCC section 40-21-13, absent voters' ballots may be used in municipal elections in accordance with the provisions of chapter 16-18, as amended.

A. Absent Voter -- Who may vote;
Any qualified elector of this state, who is absent from the county in which he is an elector, or who by reason of physical disability, or who is in the military or naval service or the merchant marine of the United States of America, and is unable to attend at the polling place in his precinct to vote at any general, special or primary state election, or at any city, village, or school election, may vote an absent voters' ballot at any such election as hereinafter provided.

Whenever the words "In the military or naval service or the merchant marine of the United States" or "In the armed forces" or "In the military service" are used in this chapter, they shall include the following:

1. Members of the armed forces while in the active service and their spouses and dependents.

2. Members of the merchant marine of the United States, and their spouses and dependents.

3. Civilians serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

4. Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents. (16-18-01)

B. Elector may vote before leaving;
Any qualified elector of this state who is present in his county after the official voters' ballots of such county or any city, village, or school district within such county have been printed, and who has reason to believe that he will be absent from such county on election day as provided in section 16-18-01, as it may be amended, may vote before

he leaves his county in the same manner as an absent voter. Any elector having marked his absent voters' ballot under the provisions of this section who shall return to his precinct before or on election day may vote in person if his ballot has not been deposited in the ballot box. (16-18-02)

C. Ballots;

1. Preparation and Printing;
For all general, primary, or special state or congressional district elections, for all other special elections held at the same time as a general or primary election, and for all city and school elections, official ballots shall be prepared within the time limits provided for in section 16-18-04. In the case of special elections wherein the election is called less than twenty or fourteen days, as the case may be, before the election day, or where certification of candidates does not take place before the twenty- or fourteen day limitations, the ballots for the use of absentee voters shall be made available as soon as possible. Only official ballots shall be used as absentee ballots and no indication shall be noted on such ballots that they are used by absentee voters except that the return envelope shall be marked "ballot of absentee voter". (16-18-03)

2. Availability;
It shall be the duty of the secretary of state, county auditor, or any other officer by law required to prepare any general, special, or primary state election ballots, to prepare and have printed and delivered to the county auditor at least twenty days prior to the holding of any general, special, or primary state election, a sufficient number of absent voter ballots provided for by law for the use of all voters likely to be absent from such county on the day of such election. In city, village, or school elections it shall be the duty of the auditor or clerk of the city or village, the clerk of the school district, or any other officer by law required to prepare any city, village, or school election ballots, to prepare or have printed and available for distribution to the public at least fourteen days prior to the holding of any city, village, or school election, a sufficient number of absent voter ballots provided for by law for the use of all voters likely to be absent on the day of such election from the county within which such city, village, or school district is situated. (16-18-04)

D. Application for ballot;

1. Time;
At any time within thirty days next preceding an election any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, or who by reason of physical disability, or who is serving in the military or naval service or the merchant marine of the United States of America

and is unable to attend at the polling place in his precinct to vote at such election, may make application to the county auditor of the county, the auditor or clerk of the city or the clerk of the school district, as the case may be, for an official ballot to be voted at such election. No such auditor or clerk shall issue ballots for absentee voters on the day of the election. (16-18-05)

2. Form;
Application for such ballot shall be made on a blank to be furnished by the proper officer of the county, city, or school district of which the applicant is an elector and must be substantially in the following form:

I, _____, a duly qualified elector of the township of _____ or of the _____ precinct of the _____ ward of the city of _____ of the county of _____ of the state of North Dakota, to my best knowledge and belief entitled to vote in such precinct at the next election, expecting to be absent from said county on the day for holding such election, or by reason of physical disability being unable to attend and vote at such election, hereby make application for an official absent voter's ballot to be voted by me at such election.

Date _____

Witness: _____ Signed _____

Post Office _____

Provided that qualified electors in the military or naval service or the merchant marine of the United States of America shall not be required to file any formal application for an absent voter's ballot for any general or primary election but each county auditor of each county in the state of North Dakota shall upon receiving any information whether in writing or otherwise as to the mailing address of any qualified elector in the military or naval service or the merchant marine of the United States immediately upon receiving the ballots from the printers, mail to such electors a ballot together with proper return envelope and instructions for voting. (16-18-06)

3. Delivery of Application;
The officers specified in section 16-18-05, upon request, shall send an application blank for an absent voters' ballot to an absent voter by mail, or they may deliver such application blank to such voter upon a personal application made at his office. (16-18-07)

E. Delivery of Ballots;
Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter

as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, auditor of the city, or clerk of the school district, as the case may be, shall send to such absent voter by mail, postage prepaid, one official ballot, or personally deliver said ballot to the applicant or his agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter; provided that the agent deposit with the auditor or clerk, as the case may be, authorization in writing from the applicant to receive such ballot or according to requirements hereinafter set forth for signature by mark. If there is more than one ballot to be voted by an elector of such precinct, one of each kind shall be included and an envelope shall be enclosed with such ballot or ballots. Such envelope shall bear upon the front thereof the name, official title, and post-office address of the officer supplying the voter with the ballot, and upon the other side a printed statement in substantially the following form:

State of _____)
)
County of _____)
)

I, _____, under penalty of perjury, do solemnly swear that I am a resident of the township of _____, or of the _____ precinct of the _____ ward in the city of _____, residing at _____ in said city, county of _____ and state of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from the said county of my residence on the day of holding such election or that by reason of physical disability I am unable to attend at the polling place for such election, and that I will have no opportunity to vote in person on that day.

_____

If such absent voter is unable to sign his name, he shall make his mark (X) in the presence of a disinterested person. Such disinterested person shall print the name of the person marking his X below the X, and shall sign his own name following the printed name with the notation "witness to his mark". (16-18-09)

F. Care and custody of ballot;
Upon receipt of the envelope containing the absent voter's ballot, the proper officer forthwith shall enclose the same unopened, together with the written application of such absent voter, in a larger envelope which shall be sealed securely and shall be endorsed with the name of the proper voting precinct, the name and official title of such officer, and the words "This envelope contains an absent voters' ballot and must be opened only on election day at the polls while the same are open." Such officer

shall keep the envelope safely in his office until it is delivered by him as provided in this chapter. (16-18-15)

G. Submitting ballot to inspector of elections;
If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or clerk of the school district, as the case may be, prior to his delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16-18-15, shall be enclosed in such package and delivered therewith to the inspector of such precinct. If the official ballots for such precinct shall have been delivered to such inspector of elections at the time of the receipt by the proper officer of such absent voter's ballot, then such officer forthwith shall mail the same postage prepaid to such inspector of elections, or he, or his deputy shall personally deliver it to such inspector. (16-18-16)

H. Opening ballot -- Voting or rejecting;
At any time between the opening and closing of the polls on election day, the inspector of elections or judges of election of such precinct first shall open the outer envelope and compare the signature to such application for an absent voter's ballot with the signature to the statement provided for in section 16-19-09. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at such election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined and after endorsing the same as other ballots are endorsed, they shall deposit the ballot in the proper ballot box and show by the records of such election that such elector has voted. If such statement is found to be insufficient, or that the said signatures do not correspond, or that such applicant is not then a duly qualified elector of such precinct, such vote shall not be allowed, but without opening the absent voter's envelope, the inspector of elections or judge of such election shall mark across the face thereof "rejected as defective" or rejected as not an elector", as the case may be. The subsequent death of an absentee voter after having voted by absentee ballot shall not constitute grounds for rejecting such ballot. The absent voter's envelope when such absent vote is voted, and the vote is rejected, shall be deposited in the ballot box and shall be retained and preserved in the same manner

as official ballots voted at such election are retained and preserved. (16-18-17)

I. Registration of Absent Voter's Ballots on Voting Machines; Absent voter's ballots if any, shall be registered on the voting machines by two election officials of opposed interests, if such there be; otherwise by any two election officials. The voting of absent voters' ballots on the voting machines shall be done in secrecy by the two election officials during the voting day at such intervals as are available when machines are not in use by voters. (16-18-20)

V. Bond for Elected Officials;
Before any public employee, excluding one whose position is covered by a blanket bond, shall assume his duties, the state auditor, county auditor, city auditor, township clerk, or school district clerk, as the case may be, shall report to the commission in such manner and form as the commissioner shall prescribe, the election or appointment of such public employee and the amount of the bond required of him, and shall remit with such report by check, draft, or express or postal money order the premium required under the provisions of this chapter. (26-23-05)

For information concerning bonds for public employees see chapter 26-23, North Dakota Century Code.

Chapter VII

ANNEXATION AND ZONING CHANGES

This chapter deals with the various procedures involved in the annexation process by a municipality and in making changes in zoning ordinances.

A. Annexation by Petition of Owners and Electors:
Upon a written petition signed by not less than three-fourths of the qualified electors or by the owners of not less than three-fourths in assessed value of the property in any territory contiguous or adjacent to any incorporated municipality and not embraced within the limits thereof, the governing body of the municipality, by ordinance, may annex such territory to the municipality. (40-51.2-03)

B. Notice--Petition of Owners and Electors:
The governing body shall not take final action on a petition presented by owners and electors until the petitioners have given notice of presentation of their petition by one publication in the official newspaper of the municipality, and if none, in the official newspaper of the county. (40-51.2-05)

C. Petition of Owners and Electors - Annexation or Exclusion:
If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall be effective. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation. (40-51.2-06)

D. Exclusion by Petition of Owners and Electors:
Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and contiguous or adjacent to such limits, the governing body of the municipality, by ordinance, may in its discretion, disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either chapter 40-50 or section 57-02-39,

and where no municipal improvements have been made or constructed therein or adjacent thereto. (40-51.2-04)

E. Annexation by Resolution of Municipal Corporation: The governing body of any municipality may adopt a resolution to annex contiguous or adjacent territory as follows:

1. The governing body of the municipality shall adopt a resolution describing the property to be annexed; and

2. Shall cause said resolution together with a notice of the time and place it will meet to hear and determine the sufficiency of any written protests against such proposed annexation to be published in the official newspaper once each week for two consecutive weeks. The owners of any real property within the territory proposed to be annexed within thirty days of the first publication of such resolution may file written protests with the city auditor protesting against the proposed annexation. The governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof; and

3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall become effective. If the owners of one-fourth or more of the territory proposed to be annexed protest, the city may seek annexation by petition to the annexation review commission as hereinafter provided. (40-51.2-07)

F. Annexation by Petition of Municipal Corporation: The governing body of any municipal corporation may petition the attorney general for annexation of any territory contiguous or adjacent to it. The petition shall set forth an accurate map of the area sought to be annexed, its description, and the reasons for its annexation. (40-51.2-08)

G. Annexation Review Commission to be Constituted--Hearing Set: Upon receipt of such petition the attorney general shall issue an order to constitute an annexation review commission to hear such petition and he shall designate a time and place at

which the commission shall meet to consider the petition. The time of such hearing shall be not less than thirty days after receipt of such petition. (40-51.2-09)

H. Annexation Review Commission--Composition:
The annexation review commission shall be composed of the attorney general, one county member and one city member. The board of county commissioners shall appoint one member of the board of supervisors, selected by said board of supervisors, selected by said board of supervisors, from the township in which the territory sought to be annexed is situated as the county member on such annexation review commission and in the event such territory is not situated in an organized township then the board of county commissioners shall appoint one of its members who resides outside the corporate boundaries of the annexing municipality as the county member on such commission and the governing body of the municipality instituting the annexation proceedings shall appoint one of its members as the city member on such commission. The attorney general shall be chairman of such commission, and he may designate one of his assistant attorneys general to serve and act in his stead on such commission. (40-51.2-10)

I. Notice Required:
At the time he sets the time and place of hearing, the chairman of such commission shall direct the annexing municipality to cause a notice of such hearing and a copy of its petition to be published at least once a week for two successive weeks in the official newspaper of such municipal corporation, and to serve a copy of such notice and petition upon the chairman of the governing body of the county and township, if organized, wherein the territory to be annexed lies. Such hearing shall be held not less than thirty days after the first publication of such notice. Proof of publication and service of the notice and petition as required herein shall be filed with the chairman of such commission prior to the time of such hearing. (40-51.2-11)

J. Annexation Review Commission--Hearing:
At the time of the hearing the commission shall hear all evidence with respect to such annexation and it shall consider all studies, surveys, maps, data, reports and other material prepared by any state or local governmental subdivision, planning or zoning commission in the performance of their functions. Any resident of or person owning property or having any interest in the area proposed to be annexed and any elector of the annexing municipality or his representatives may appear at such hearing and present evidence upon any matter to be determined by the commission. All proceedings at the hearing and any continuances thereof shall be recorded but the same need not be transcribed unless proceedings for judicial review are initiated as provided in section 40-51.2-15. (40-51.2-12)

K. Decision:
Upon the completion of the hearing, the commission shall determine if the annexation should be granted after considering and finding that from the evidence one or more of the following factors are present with respect to the proposed annexation which will constitute a more harmonious and compatible metropolitan community:

1. The present and future uses or development of the area sought to be annexed.

2. Whether a community of interest exists between the area sought to be annexed and the annexing municipality.

3. The educational, recreational, civic, social, religious, industrial, commercial, or municipal facilities and services made available by or in the annexing municipality to any resident, business, industry or employee of such business or industry located in the area sought to be annexed.

4. Whether any governmental services or facilities of the annexing municipality are or can be made available to the area sought to be annexed.

5. The economic, physical and social relationship of the inhabitants, businesses, or industries of the area sought to be annexed to the annexing municipal corporation, and to the school districts and other political subdivisions affected thereby.

If a majority of the commission are satisfied that the annexation should be granted, it shall determine the terms and conditions upon which annexation is to be had and shall enter an order granting the petition. In all cases, the commission shall set forth in writing its findings of fact, its conclusions based thereon and its decision, and shall mail a copy thereof to all parties to the annexation proceedings.

The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted and the effective date thereof. Such order together with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded in the office of the register of deeds of the county wherein the annexed territory is situated. (40-51.2-13)

L. Powers of the Commission--Decision--Terms:
The commission in making its decision, shall balance the equities presented by the evidence and shall enter an order setting forth what it deems to be fair and reasonable terms and conditions and shall direct the annexation in conformity therewith. It shall

have power:

1. To approve or disapprove, with or without amendment, wholly, partially, or conditionally the petition for annexation.

2. To determine the metes and bounds of the territory to be annexed and may include the same area or a smaller area than that described in the petition.

3. To require payment by the municipal corporation of a sum determined by the commission payable to compensate for the value of public improvements acquired by the annexation proceedings and to require the assumption by the municipal corporation of a prorata share of any existing bonded indebtedness of any township from which territory is annexed. (40-51.2-14)

M. Review of Determination of Commission by Certiorari:
Within thirty days after receipt of the commission's order, any interested party dissatisfied with the decision made by the annexation review commission may make an application to the district court for a writ of certiorari. The review upon such writ shall extend only to the determination of whether such commission has pursued its authority regularly and has not exceeded its jurisdiction or abused its discretion under the provisions of this chapter. (40-51.2-15)

N. Effective Date of Annexation by Annexation Review Commission:
Territory annexed to a municipality under the provisions of this chapter relating to petition to annexation review commission shall be annexed as of the date of the order of the commission, except for tax purposes, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. Annexation shall be effective for the purpose of general taxation on and after the first day of April next ensuing, provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purpose of all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are subdivided, or put to another use. (40-51.2-16)

O. Cost of Annexation:
The costs of annexation proceedings shall be paid by the municipal corporation instituting the proceeding and shall be the same as those allowed in any civil action. (40-51.2-17)

P. Assessments on Annexed Property:
Any property which was outside the corporate limits of the municipality at the time of contracting for a water or sewer improvement, which is benefited by such improvement and is subsequently annexed to the municipality, may thereafter be assessed therefor subject to the same conditions and by the same procedure as provided in section 40-23-18. Any such property which is benefited may also be assessed for a water or sewer main which, at the time

of contracting therefor, was outside the corporate limits, or for any water or sewer improvements, within or outside the corporate limits which is determined by the governing body and the special assessment commission to benefit only property which was outside the corporate limits at the time of contracting therefor, whether or not an improvement district was previously created therefor, and whether or not the property assessed abuts on such main or other improvement on a main to be connected thereto. For this purpose the governing body may create one or more improvement districts comprising such annexed territory or any part thereof, and may thereafter provide for the levy of special assessments upon such property in the manner provided in title 40 of this code, but may dispense with the requirements of title 40 as to the adoption of a resolution of necessity and the advertisement and award of a contract for the improvement, and the assessment proceedings shall be valid notwithstanding any failure of the previous proceedings to comply with the provisions of law regarding improvements to be financed by special assessments. (40-23-19)

Q. Summary of Procedure of Annexation by Petition:

1. Area must have been platted. Plat filed with Register of Deeds and approved by Planning Commission.

2. Petition is filed with the City Auditor.
   (a.) Must have signatures of 3/4 of owners.
   (b.) Must have accompanied by annexation plat.
   (c.) Must make any required deposit for publication.

3. Auditor refers petition to Council.

4. Council directs publication and refers to Planning Commission for recommendations on zoning. (Publication of Notice of Petition to be published once) (If Planning Commission has acted on zoning previously, it need not be referred to them). (Sample notice of Public Hearing, see Appendix C, Form 2)

5. Council obtains certificates from the Engineer pertaining to required improvements in the area and from City Auditor, regarding deposit for gravel and maintenance.

6. Planning Commission makes zoning and annexation recommendations to City Council.
   (a.) If zoning is different than previously recommended at the time of plat approval, a public hearing must be held.

7. City Auditor's Office determines benefit and connection fees.

8. City Council adopts ordinance annexing area.

9. Ordinance and plat are filed with Register of Deeds.

R. Procedure Involved in Zone Change:

1. Petition for rezoning is filed with City Auditor. (Sample petition in Appendix C, Form 3)

2. $10.00 deposit must accompany the petition.

3. City Council or City Auditor refers the petition to the Planning Commission.

4. Planning Commission requires the following:
   (a.) Map of area showing ownerships within 200 feet of area to be rezoned.
   (b.) Owners within this area must sign petition or explanation of lack of approval must be given.

5. Planning Commission hold public hearing on zoning. Notice of hearing published once, at least 10 days prior hearing. (Sample notice in Appendix C, Form 4)

6. Following hearing, the Planning Commission submits recommendation to the City Council.

7. The City Council may change zone by adoption of an ordinance:
   (a.) If a protest against the zone change is signed by owners of 20% or more of the area of the lots included in the proposed change, or of the area to be changed (excluding the width of streets) then the favorable vote of 3/4ths of the members of the Council is required to adopt the ordinance. (40-47-04 & (40-47-05).

Chapter VIII

ORDINANCES

This chapter outlines the procedures and form for enacting a municipal ordinance.

A. Enacting Clause:
The enacting clause of every ordinance adopted by a municipal corporation shall be: Be it ordained by the _____ (governing body) of the city of _____. Such caption, however, may be omitted when the ordinances are published in book form or are revised and digested. (40-11-01)

B. Procedure in Passing Ordinances:
All ordinances shall be read twice and the second reading and final passage shall not be had in less than one week after the first reading. After the first reading and before final passage, an ordinance may be amended. Except as otherwise specifically provided, a majority of all of the members of the governing body must concur in the passage of an ordinance and in the creation of any liability against the city and in expending or appropriating money. (40-11-02)

C. Ordinances Adopted in Council Cities:
An ordinance adopted by the city council of a city operating under the council form of government is not enacted until it is approved by the mayor or passed over the mayor's veto. An ordinance passed by the governing body of a city operating under the council form of government shall be deposited in the office of the city auditor for the approval of the mayor. (40-11-05)

D. Publication of Ordinances:
The title and penalty clause of every ordinance imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions, after the final adoption of such ordinance, shall be published in one issue of the official paper of the municipality. (40-11-06) The official newspaper of the municipality is established according to the provisions of NDCC section 40-01-09. Procedures for publication by a city or

park district in which no official newspaper is published are provided in NDCC section 40-01-11.

E. Certificate of Publication Filed in Auditors Office:
After any ordinance, notice, resolution, or other proceeding has been published, a copy of the publication together with the affidavit of publication stating the length of time it has been published, shall be filed with the city auditor. Such affidavit shall be conclusive evidence of the publication. The bill for the publication shall not be audited until such affidavit is filed. (40-01-10)

F. Effective Date of Ordinances:
Ordinances finally approved by the governing body of a municipality and which require publication shall take effect and be in force from and after the publication thereof unless otherwise expressly provided in the ordinance. Ordinances which do not require publication shall take effect and be in force from and after the final approval thereof unless otherwise expressly provided therein. (40-11-07)

G. Ordinance Book Required:
Each municipality shall keep an ordinance book. The city auditor shall record in such book all ordinances finally passed and approved, and when any ordinance has been published, he shall record therein the affidavit of publication or of posting. The ordinance book, or copies of ordinances as recorded therein, certified by the city auditor, shall be received as evidence without further proof. (40-11-08)

H. Action for Violation of Ordinance in Corporate Name:
Any action brought to recover any fine, to enforce any penalty, or to punish any violation of an ordinance of any municipality as plaintiff. (40-11-10)

Chapter IX

COUNCIL FORM OF GOVERNMENT

This chapter presents some general information on the organization, duties and power of the council form of government under North Dakota statutes.

A. Council form;

1. The governing body of a city operating under the council form of government shall be the city council, which shall be composed of the mayor and aldermen. (40-08-01)

2. Number of aldermen determined by population;
The number of aldermen shall be as follows:
   (a.) In cities of six hundred inhabitants or less, four:
   (b.) In cities of more than six hundred and not more than two thousand inhabitants, six;
   (c.) In cities of more than two thousand and not more than four thousand inhabitants, eight;
   (d.) In cities of more than four thousand and not more than ten thousand inhabitants, twelve;
   (e.) In cities of more than ten thousand inhabitants, fourteen;
   (f.) Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten aldermen and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure hereinafter provided.

   The population of the cities shall be determined by the last official federal, state, or municipal census. Whenever a census of the city shall show a population requiring more aldermen than are in the council at the time of taking such census, the city council shall not be required to make a change in the number of aldermen and the corresponding change in the number of wards of such city unless a majority of the electors thereof, to be determined by the number of names on the poll list of the last city election, petition therefor. (40-08-03)

3. Election of Aldermen;
In cities containing six hundred inhabitants or less, the aldermen shall be elected at large. In all other cities operating under the council form of government, except in a city operating with ten aldermen and mayor, the aldermen shall be elected by wards, and two aldermen shall be elected from each ward. In cities operating

under ten aldermen and mayor, one alderman shall be elected from each of the seven wards and three aldermen and mayor shall be elected at large. (40-08-04)

4. Qualifications of Aldermen;
No person shall be eligible to the office of alderman if he:
   (a.) Is not a qualified elector of and resident within the ward for which he was elected, except that in cities where aldermen are elected at large, he shall be a qualified elector of and a resident within the city; or
   (b.) Has been convicted of malfeasance, bribery, or other corrupt practice or crime.
(40-08-05)

5. Term of Office;
Staggered terms of office for aldermen are established according to provisions of NDCC section 40-08-06 or 40-08-06.1 as appropriate.

6. Compensation;
Aldermen are compensated according to ordinance but limited to a schedule of maximum amounts provided in NDCC section 40-08-07.

7. Vacancies -- How filled;
If a vacancy occurs in the office of alderman by death, resignation, or otherwise, the city council may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days of the date of such vacancy appoint a person from the ward in which the alderman previously holding was elected or appointed to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors of such ward, as determined by the total number of votes cast in such ward in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next city election, provided such petition has been submitted within fifteen days and before four o'clock p.m. of the fifteenth day of the date of such vacancy. If the petition is mailed it shall be in the position of the council or its representative before four o'clock p.m. on the fifteenth day after the vacancy occurs. (40-08-08)

8. Restrictions on Members:
No member of the city council shall:
   (a.) Be eligible to any other office the salary of which is payable out of the city treasury;
   (b.) Hold any other office under the city government: or
   (c.) Hold a position of remuneration in employment

of the city. (40-08-09)

9. Meetings;
The city council shall hold its regular meetings on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings may be called. The first meeting for the organization of the city council shall be held on the third Tuesday in April of each even-numbered year. (40-08-10)

10. When President and Vice President Elected;
At the organization meeting in each even-numbered year, the members of the city council shall proceed to elect from their number a president and a vice-president who shall hold their respective offices until their successors are elected at the organization meeting following the next biennial election. (40-08-11)

11. Publication of Proceedings;
The city council shall publish a complete record of all its proceedings in its official newspaper no later than thirty days after the meeting at which the record is read and approved. (40-08-12)

B. Modern Council;
1. Constitution and Terms;
The governing body of a city operating under the modern council form of government shall be the city council, which will be composed of five members, one of whom shall be the mayor, all elected at large or a city council composed of seven members, four of whom shall be elected by wards, and three of whom, including the one serving as mayor shall be elected at large. Candidates for the council shall run for either mayor or councilman but not both at the same time. The mayor shall be elected at large or, a city council composed of eleven members, seven of whom shall be elected by wards and four of whom, including the one serving as mayor, shall be elected at large. Candidates for the council shall run for either mayor or councilman but not both at the same time. The mayor shall be elected at large. When a city first adopts a modern council form of government in cities electing five council members, the candidates having the three highest number of votes shall be elected for a four-year term and the other two for a two-year term. In cities electing seven or eleven council members, the candidates, by means of their nominating petitions must announce their intentions to seek a ward seat or an at-large seat, or the mayor's seat. A candidate seeking a ward seat shall be a resident of such ward. When a city first adopts a modern council form of government in cities electing seven members, the elected mayor candidate and the elected candidates from the four wards shall be elected for a four-

year term and the three at-large elected candidates for a two-year term. When a city first adopts a modern council form of government in cities electing eleven members, the elected mayor candidate and the elected candidates from seven wards shall be elected for a four-year term and the three at-large elected candidates for a two-year term. Thereafter the terms of members of the council shall be four years or until their successors are elected and qualified. (40-04.1-01)

2. Compensation of Councilmen;
The members of the council shall receive such compensation for their services as shall be fixed by ordinance, but not more than the maximum provided for the members of the governing board under any other form of city government, except in the cities adopting the eleven-member modern council the maximum compensation shall be $85 per month. (40-04.1-2)

3. Vacancies on City Council -- How Filled:
If a vacancy occurs in the office of councilman by death, resignation or otherwise, the city may call a special election to fill such vacancy for the unexpired term or may after fifteen days of the date of such vacancy appoint a person from the ward or city at large by which the councilman previously holding was elected or appointed to fill such vacancy until the next city election, at which election the unexpired term shall be filled. (40-01.1-03)

4. Restrictions on Council Member;
No city councilman shall be eligible to any other office the salary of which is payable out of the city treasury, nor shall he hold any other office under the city government. (40-04.1-04)

5. Meetings -- Regular, Special and for Organizations;
The city council shall hold its regular meetings on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings may be called. The first meeting for the organization of the city council shall be held on the third Tuesday in April of each even-numbered year. (40-04.1-05)

6. Mayor Presides at Council Meetings;
The mayor shall preside at meetings of the council, and be recognized head of the city for all ceremonial purposes and by the governor for purposes of military law. He shall continue to have all the rights and privileges as a member of the council. If a vacancy occurs in the office of mayor or if the incumbent is absent or disabled, a mayor pro tempore shall be selected by the council form among their number to act for the unexpired term or during continuance of the absence or disability. (40-04.1-06)

Chapter X

FIRE REPORTING

This chapter outlines the duty of the city auditor to report fires to the state fire marshall, in the absence of a fire chief in that city, and compensation for performance.

A. Fire Chiefs and Auditors or Secretaries of Cities and Rural Fire Protection Districts Must Report Fires:
Within five days after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged in an amount which exceeds twenty-five dollars, the fire chief of such city or rural fire protection district, if a fire department is maintained therein, or the auditor of the city or the secretary of the rural fire protection district, if a fire department is not maintained therein, shall report the cause, if known, and the origin and circumstances of the fire and the name of the owner and occupant of such property, to the state fire marshall. Such report shall show whether such fire was the result of carelessness, accident, or design. The provisions of this section shall be compiled with, in so far as the same are applicable, if the fire is of unknown origin, regardless of the amount of damage caused thereby. (18-01-06)

B. State Fire Marshall May Direct Investigation:
An investigation of each fire shall be made by the officers required to report the occurence of fires under section 18-01-06. The state fire marshall shall furnish blanks upon which reports of investigations of fires shall be submitted and, when he deems it expedient or necessary, he may supervise and direct any of such investigations. Within one week after the occurence of a fire, the officer investigating it shall furnish to the state fire marshall a written report containing a statement of the facts relating to the cause and origin of the fire and such other information as the fire marshall may require. The state fire marshall shall keep in his office a record of all fires occurring in the state together with the facts, circumstances, and statistics in connection therewith and showing the origin of such fires as the same may be determined from the reports filed in his office. (18-01-07)

C. Compensation for Report to Fire Marshall:
There shall be paid to the chief of the fire department and the auditor of each city, who does not receive fifty dollars or more annually as compensation for his services as such and who is required by this chapter to report fires to the state fire marshall, a fee of one dollar and fifty cents for each fire reported to the satisfaction of the fire marshall. Such fees shall be paid at the close of each fiscal year out of funds appropriated for that purpose by the legislative assembly. (18-01-08)

D. City Auditor or Secretary of Rural Fire Department to File Certificate with Department of Accounts and Purchases and Commissioner of Insurance:
On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department which has an organized fire department shall make and file with the dpeartment of accounts and purchases and with the commissioner of insurance his certificate stating the existence of the fire department, the date of its organization, the number of steam, hand, or other fire engines, hook and ladder trucks, and hose carts in actual use, the number of organized companies in the department, the number of members in each company, and the system of water supply in use by the department, together with such other facts as the department of accounts and purchases or commissioner may require. (18-04-02)

Appendix A

SAMPLE FORMS RELATING TO SPECIAL ASSESSMENTS

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Form # 1

PETITION FOR SPECIAL ASSESSMENT IMPROVEMENT

TO: The City Council
City _____, North Dakota

Gentlemen:

We, the undersigned residents and property owners residing and owning property on the street, avenue, alley, of the City _____ on which improvement is to be made, as indicated below, do hereby petition the City Council to have (kind of improvement).

_____

Location:

_____

_____

_____

_____

The same to be done under the special assessment plan, as provided by law, and paid for by special assessments against benefited properties and/or with such other financial assistance as may be legally available from other sources.

* *

Date	Signature of Owner	Description of Property		
		Addition	Lot	Block

Form # 2

To the
Board of Commissioners of the
City _____, North Dakota

We, the undersigned, do hereby certify that we own the lots or parcels of land described following each name subscribed hereto, and

We respectfully petition the Board of City Commissioners to take such action as may be required by law to construct _____ at the location described following:

And by our signatures affixed hereto declare that we understand and agree that the funds necessary to defray the cost and expense of such Special Improvement shall and will be provided by and from special assessments levied against property benefitted by such improvement.

Submitted by: _____

Address _____
Telephone No.

NOTE: Lots, Blocks and Addition must be specified for each signature below:

SIGNATURE of Legal Owner	PROPERTY DESCRIPTION Lot Number	Blk.	Addition	Residence Address

Watermain DIST NO 77

RESO NO [illegible]
DATE February 24, 1971

TO THE HONORABLE MAYOR AND
MEMBERS OF THE CITY COUNCIL
CITY OF GRAND FORKS, NORTH DAKOTA

Form # 3

BEST COPY AVAILABLE

GENTLEMEN:

I HEREWITH SUBMIT AN ESTIMATE OF THE PROBABLE COST OF THE CONSTRUCTION OF watermain - Washington View Addn.- 32nd Ave. S. (Legend Lane to Washington St.) S 12th St. (32rd Ave. S. to S.E. Lot k).

IN THE CITY OF GRAND FORKS, NORTH DAKOTA.

ITEM NO	ITEM	AMT	UNIT	INSTALL	MAT'L	UNIT COST	TOTAL
.0201	8" ACP	877 L.F.				[illegible]	[illegible]
.0202	12" ASP	130 L.F.				11 [illegible]	[illegible]
.0214	6" ACP Hydrant Lead	15 L.F.				[illegible]	[illegible]
.0214	8" G/V & Box	3 Ea.				275 00	[illegible]
.0215	12" G/V & Box	1 Ea.				325 00	325 [illegible]
.0207	Hydrants	3 Ea.				450 00	1350 00
	Construction Cost						10,732 00
	Adv. Engineering & Contingencies						2,146 40
	Project Total						12,878 40

ACCEPTED & RECOMMENDED
BY CITY COUNCIL
DEPUTY CITY AUDITOR

-81-

Frank B. Ortmeyer
FRANK B. ORTMEYER, CITY ENGINEER

Form # 4

RESOLUTION

BE IT RESOLVED, That the total cost of _____ Project No. _____. _____ District No. _____. is estimated to be $ _____ and it is hereby directed that special assessments be levied for the payment of the entire cost of said work, and the City Auditor is directed to so notify the chairman of the Special Assessment Commission, and to certify to him the estimated total cost of said work, and request immediate action by the Special Assessment Commission in the making and returning of special assessments therefor as provided by Section 40-23-05, North Dakota Century Code, as amended.

I, _____, City Auditor, hereby certify the aforementioned to be a true and correct copy of a resolution adopted by the City Council of the City _____, North Dakota, at its _____ meeting held on _____, _____, 19____.

Dated at _____, North Dakota, this _____ day of _____, 19____.

_____
City Auditor

Form # 5

RESOLUTION DECLARING WORK NECESSARY IN

_____

_____District No. ____

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY _____, NORTH DAKOTA that it is deemed necessary and to the best interests of the residents, citizens, freeholders and inhabitants who reside along and in the vicinity of and who will be especially benefited thereby, and it is hereby declared necessary that _____ _____ be constructed on certain streets, avenues and alleys in _____ District No. _____ in the City of _____ in accordance with plans, specifications, and estimates heretofore prepared by the City Engineer of the City of _____, North Dakota, approved and ordered filed with the City Auditor of the City of _____, North Dakota, and which plans, specifications and estimates are now on file in the office of the City Auditor, and which plans, specifications and estimates specify the streets, avenues and alleys wherein such work is to be constructed, namely:

BE IT FURTHER RESOLVED, that said improvement shall be paid for by special assessment warrants on _____ _____District No. _____ Fund, and the total amount thereof to be assessed against the property in the said district that is especially benefited thereby, according to law.

Passed and adopted this _____day of _____ 19____.

APPROVED:

_____
Mayor

ATTEST:

_____
City Auditor

Publish twice:

Form # 6

NOTICE TO CONTRACTORS
CALL FOR CONSTRUCTION PROPOSALS

Notice is hereby given that sealed bids will be received by the undersigned until 5:00 P.M. on _____ at his office in the City Hall in the City of _____, North Dakota, and will be presented to the members of the City Council at their _____ meeting scheduled for said day at 7:30 o'clock p.m. for furnishing all plant, labor, materials, equipment and other facilities and things necessary or incidental for construction of the following:

And all appurtenances upon the basis of cash payment for the cost of same.

Each bid must be submitted on blanks furnished by the City Engineer and must be accompanied by a certified check, cashier's check, or bidder's bond in the amount of $500.00 made payable to the Mayor of the City of _____, North Dakota, and an acceptable bidder's bond running to said City in an amount equal to one hundred (100) percent of the bid total, said check and bond to be issued in compliance with statutes governing this class of work.

All work shall be done according to the plans and specifications on file in the Office of the City Auditor, City Hall, _____, North Dakota.

All bids must be submitted in a bidding envelope that is securely sealed. The envelope shall be plainly marked to indicate its contents and shall show at least the following:

1. Project Title and District Number
2. Bidder's name and address
3. Bidder's license number, class designation and date of expiration

A bid submitted without this information on the envelope will not be considered.

Bids will be taken under advisement and the award of the contract, if awarded, will be made within thirty (30) days after the date of opening the bids. The work shall be completed by _____.

The City Council reserves the right to reject any or all bids or to waive any informality in the bids received and to accept any bid deemed to be most favorable to the interest of the City of _____.

Copies of the contract documents, including plans and specifications, may be seen or obtained at the Office of the _____City Engineer, City Hall _____. North Dakota. There will be a charge of $150.00 for each copy of the Standard Construction Specification book.

Done by order of the City Council of the City of _____. North Dakota this _____ day of _____. 19__ .

(SEAL)

_____
City Auditor

Form # 7

CERTIFICATE OF ENGINEER
AS TO ESTIMATED COST

I, _____, City Engineer of the City of _____, North Dakota, after having tabulated the bids for the construction of special improvement Project No. _____, _____ District No. _____, DO HEREBY CERTIFY THAT, upon the basis of the lowest and best bid and my estimate as to other costs properly attributable to said project, I estimate that the said project will cost the total sum of $_____, said estimate being based upon the following itemization and detail:

Total bid of _____	$ _____
Based upon estimated quantities	$ _____
Engineering	$ _____
Administrative Expense	$ _____
Interest During Construction	$ _____
Advertising, Legals, Commission, and Contingencies	$ _____

Dated _____, 197__

_____
City Engineer

Form # 8

NOTICE OF CONFIRMATION OF
ASSESSMENT LIST AND SPECIAL
ASSESSMENTS EXTENDED IN

BY THE SPECIAL ASSESSMENT COMMISSION

NOTICE IS HEREBY GIVEN, that the Special Assessment Commission of the City of _____has prepared and spread a special assessment against the property in _____ District No. _____showing a list of the benefits and assessments against each lot and parcel of land assessed in said district for the construction of _____ in such district; and that said Special Assessment Commission has certified said list to the City Auditor; and that the City Council will meet in the Council Chambers on _____ at eight o'clock p.m. to act on such special assessment list; that such special assessment list is open to public inspection and that any person aggrieved thereby may appeal from the action of the Special Assessment Commission by filing with the City Auditor a written notice of appeal, stating the grounds upon which such appeal is based. Any person appealing may appear before the City Council, and present his reasons why the action of the Special Assessment Commission should not be confirmed, and the City Coucil will confirm the special assessment list at such hearing.

Dated this _____ day of _____, 19____.

_____
City Auditor

Publish:

Form # 9

RESOLUTION CONFIRMING SPECIAL ASSESSMENTS IN

WHEREAS, HERETOFORE, the Special Assessment Commission of the City of _____ prepared and spread a special assessment against the property in _____, and thereafter gave notice by publication, as required by law, setting the _____ day of _____, as the date and time when the Board would meet to hear objections; and thereafter on the _____ day of _____, the said Special Assessment Commission met, and after due hearing, did confirm the said Special Assessment list and filed the same with the City Auditor, in accordance with law.

The City Auditor gave notice that the City Council would meet in the Council Chambers of the City of _____ on the _____ day of _____, at eight o'clock p.m. to act upon such special assessment list; and on the _____ day of _____, there being no protests filed and no appearance by any persons claiming to be aggrieved by such assessment.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of _____, that the said special assessment list extended against property in _____, as confirmed by the Special Assessment Commission of the City of _____, be and the same is hereby confirmed, and the City Auditor is authorized and directed to attach to such list his certificate that the same is correct as confirmed by the City Council of the City of _____, and shall file the list in his office.

Passed and adopted this _____ day of _____.

Attest: APPROVED:

_____ _____

City Auditor Mayor

Form # 10

SIDEWALK NOTICE

TO THE OWNERS AND OCCUPANTS OF THE PREMISES DESCRIBED FOLLOWING:

WHEREAS, The Board of City Commissioners of the City of _____ deems it necessary to Sidewalk in front of or along the following premises, to writ:

and has directed the City Auditor to serve this NOTICE as required by law.

You are hereby notified that you will be required to construct, repair, or replace said Sidewalk described above, at your own expense within thirty (30) days after the date of Notice, as published in the _____, official newspaper for the City of _____. If you fail to do so, the work will be performed by the Contractor employed by the City for that purpose, and the cost thereof assessed against the premises above described.

The work shall be performed by a licensed and bonded contractor, in accordance with the specifications set forth in Chapter 18, Article 2 of the 1965 Revised Ordinances of the City of _____ and Amendments thereto.

Before commencing the work on such Sidewalk, you will be required to make application to the City Engineer for the Sidewalk line and grade, obtain a permit and pay the required fee.

DATE AT _____, North Dakota

_____ _____
City Auditor

OFFICE OF THE STREET SUPERINTENDENT)
)
City of _____, North Dakota)

I do hereby certify that I served this Notice as required by law on the _____ day of _____, 19__, in the manner indicated by X following:

( ) BY LEAVING a copy of this Notice with (a person over the age of 14 years residing thereon)

(Resident) _____
(Occupant)
(Sign Here) _____

OR ( ) BY POSTING a copy thereof in a conspicuous place on the above-described premises, there being no resident occupant thereon.

NOTICE LEFT OR
POSTED BY: _____

_____ _____
Street Superintendent

Date Certified:

Appendix B

SAMPLE FORMS RELATING TO CITY ELECTIONS

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Form # 1

"N O T I C E"

The following are the appointments of the Inspector and Judge of Election in your voting precinct for the City Election to be held Tuesday, April __, 19___.

_____ Ward _____ Precinct.

Inspector, _____.

Judge, _____.

Judge, _____.

Voting Place, _____.

Please take notice that each Judge is required to engage one clerk to serve on the Board of this Election. Such Clerk must be a qualified voter in your respective precinct.

The polls will open at 9:00 o'clock A.M. and close at 7:00 o'clock P.M.

It is requested that the Auditor be notified of the election results as soon as the votes have been counted and tabulated. All supplies and poll books may be returned to the Auditor's Office the same evening after the election work is finished if convenient, otherwise the same must be returned the following day.

Ballot box locks should be locked in one of the ballot boxes, and the keys returned to the City Auditor for safe keeping after the election.

The election supplies will be ready at the City Auditor's Office for distribution to the Inspectors on Monday prior to Election Day.

Each member of the Board must sign the certificate at the bottom of one pay voucher. Blanks are enclosed.

The statutory election compensation is as follows:

1 to 150 votes inclusive _____

151 to 250 votes inclusive _____

251 to 350 votes inclusive _____

Respectfully,

_____
City Auditor

FORM 336

Certificate of Election

STATE OF NORTH DAKOTA

City of_____ County of_____

I, _____, City Auditor within and for the City of_____ North Dakota, do hereby certify that at a _____ Election held in said City and State on the_____ day of_____, 19____

_____

Received the Highest Number of Votes Cast for the Office of

_____

for the City of_____, in the County of_____ and State of North Dakota, and was therefore duly elected to said office as appears from the official returns and canvass now on file in my office.

WITNESS my hand and official seal at_____, in said County and State, this_____ day of_____, 19____.

_____

City Auditor

GLOBE GAZETTE, WAHPETON, N. D.

"BUY NORTH DAKOTA PRODUCTS"

Certificate of Appointment

CITY OF DICKINSON, NORTH DAKOTA

I, _____, City Auditor within and for the City of Dickinson, North Dakota, do hereby certify that at a _____ meeting held in said City and State on the _____ day of _____ A. D. 19____

_____

Received Appointment by City Commission for the Office of

_____

for a term of ____ years commencing _____ 19___ to terminate _____ 19___ for the City of Dickinson, in the County of Stark and State of North Dakota and was therefore duly appointed to said office as recorded in the minutes now on file in this office.

WITNESS my hand and official seal at Dickinson, in said County and State, this _____ day of _____ A. D. 19____.

_____

City Auditor

-93-

Form # 3

OATH OF OFFICE

STATE OF NORTH DAKOTA,
COUNTY OF STARK
CITY OF DICKINSON
} ss.

I, ... DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE STATE OF NORTH DAKOTA, AND THAT I WILL FAITHFULLY DISCHARGE THE DUTIES OF THE OFFICE OF ..... IN THE CITY OF DICKINSON, STARK COUNTY, NORTH DAKOTA, according to the best of my ability, so help me God.

I HEREBY FURTHER SOLEMNLY SWEAR That I am not under any direct or indirect obligation to appoint or elect any person to the office of policeman, fireman, or any other office, position or employment under the City Government of the City of Dickinson, North Dakota.

.....

Subscribed and sworn to before me this .....
day of ....., 19.....

.....
CITY AUDITOR, DICKINSON, NORTH DAKOTA

-94-

Form # 4

Form 1610

141952 GLOBE GAZETTE, WAHPETON, N.D.

APPLICATION FOR ABSENT VOTER'S BALLOT

I, ..., a duly qualified elector of the Township of.....or of the Village of.....
or of the.....Precinct of.....
Ward of the City of.....of the County of.....
of the State of North Dakota, to my best knowledge and belief entitled to vote in such precinct at the next election, expecting to be absent from said county on the day for holding such election, or by reason of physical disability being unable to attend and vote at such election, hereby make application for an official absent voter's ballot to be voted by me at such election.

Date....., 19.....

Signed.....

Post office.....

Mail Ballots to me at.....

Is this Ballot requested by reason of physical disability?..... If answer is "yes," certificate on back of this form must be filled out and signed by superintendent of hospital or physician.

"BUY NORTH DAKOTA PRODUCTS"

Form # 5

Form # 5 (Back Side)

APPLICATION FOR ABSENT VOTER'S BALLOT

Made by .....

.....

.....

.....

.....

Filed this .....

day of ....., 19.....

.....

.....

County Auditor.

.....

GLOBE GAZETTE, WAHPETON, N.D.

STATE OF NORTH DAKOTA } ss.
County of .....

CERTIFICATE

I, ..., a duly licensed physician in the State of North Dakota, hereby certify that I am attending ..... (the applicant in the within application for absent voter's ballot), and that said applicant is under such physical disability by reason whereof he is confined to ..... in ..... County, North Dakota, and is unable to attend and vote at such Election.

.....

I, ..., the superintendent of the ..... hospital in ....., in ..... County, North Dakota, do hereby certify that ..... (the applicant in the within application for absent voter's ballot), is actually confined to said hospital, and that such applicant is under such physical disability by reason whereof ..... he is confined to such hospital and is unable to attend and vote at the next Election.

.....

APPENDIX C

SAMPLE FORMS RELATING TO ANNEXATION & ZONE CHANGES

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Form # 1

N O T I C E

of petition for annexation and hearing thereon

PLEASE TAKE NOTICE that the undersigned petitioner has filed with the City Council of the City of _____ _____ County, North Dakota, a duly verified petition requesting that the following property:

be annexed to and become a part of the corporate limits of the City of _____, North Dakota.

Dated this _____ day of _____

PETITIONERS:

_____

_____

_____

That the said petition will be heard at the _____ meeting of the City Council of the City of _____, North Dakota, _____, at 8 o'clock p.m. of said date.

_____
City Auditor

Publish once:

Form # 2

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of _____ has received for its approval or disapproval, a plat of

and that a Public Hearing will be held thereon, in the City Council Chambers at _____ on _____, at which time and place you may be heard, if you wish.

This property is located

Dated this _____ day of _____ 19_____.

_____, Secretary
City of _____ Planning
Commission

Publish: _____

Form # 3

PETITION FOR CHANGE OF ZONE FROM _____ TO _____

NOW COMES _____, the owners of the following described property:

_____

_____

and respectfully petitions that said property be rezoned from _____ to _____ for the purpose of _____

_____

WHEREFORE, your petitioner requests that the City Council act on this petition and refer the same to the Planning Commission and the Planning Commission shall give notice to the public that a hearing on said zone change will be held at a time and place certain, and thereafter, the Planning Commission shall approve or disapprove the request and return its decision to the City Council for final action.

Dated, this _____ day of _____ 19 ____.

_____
Petitioner

* *

STATE OF NORTH DAKOTA
COUNTY OF _____ SS

On this _____ day of _____ 197__ before me a notary public in and for the said County and State, personally appeared _____ known to me to be the person described and who executed the foregoing instrument and acknowledged to me that he executed the same.

My Commission expires:

_____ _____
Notary Public

* *

We, the property owners adjacent to the above described property do hereby certify that we have no objection to the changing of the zone as above petitioned:

Date	Signature of Owner	Addition	Lot	Block
_____	_____	_____	___	____
_____	_____	_____	___	____
_____	_____	_____	___	____
_____	_____	_____	___	____
_____	_____	_____	___	____
_____	_____	_____	___	____

Deposit required: $10.00

Form # 4

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of _____ will hold a public hearing on a petition to change the zoning of:

The above described property is located

The said public hearing will be held in the City Council Chambers at _____ on _____ ___. at which time and place you may be heard, if you wish.

Dated this _____ day of _____, 19___.

_____Secretary

City of _____Planning Commission

Publish_____

PUBLICATIONS

Report No. 1 — Consolidated Field Offices for State Agencies
By Lloyd B. Omdahl March, 1968 (out of print)

Report No. 2 — Vote of the People
By Lloyd B. Omdahl July, 1968

Report No. 3 — The Role of Standing Committees in the North Dakota Legislative Assembly
By James F. Herndon October, 1968

Report No. 4 — Directory -- North Dakota Senators and Representatives
December, 1968 (out of print)

Report No. 5 — Personnel Attitudes of State Employees in North Dakota
By Richard L. Wakefield December, 1968
(out of print)

Report No. 6 — Intergovernmental Cooperation for North Dakota
By Lloyd B. Omdahl January, 1969

Report No. 7 — Constitutional Revision in North Dakota
By Henry J. Tomasek January, 1969 (out of print)

Report No. 8 — North Dakota Votes
By Boyd L. Wright August, 1969 (out of print)

Report No. 9 — Home Rule for North Dakota Cities - An Opinion Survey
By Robert W. Holte October, 1969

Report No. 10 — Reorganization of County Government in North Dakota
By Sharon Wilson Martens February, 1970

Report No. 11 — Direct Election of the President - A North Dakota View
By Lloyd B. Omdahl February, 1970

Report No. 12 — Computer Possibilities in Property Tax Administration In North Dakota Counties
By E. Maine Shafer March, 1970 (out of print)

Report No. 13 — Major Attempts at Constitional Revision, 1960-1970: North Dakota Proposes Convention
By Lloyd B. Omdahl March, 1970

Report No. 14 — Municipal Tort Liability in North Dakota
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Report No. 15 — Roll Call Voting in the 1969 North Dakota Senate
By Wayne Drugan, Jr. April. 1970

Report No. 16 — Survey of Attitudes of Party Chairmen and Mayors on Partisan Election of Municipal Officials
By Phillip Gust, Audrey Boe, Robert V. Cochrane
April, 1970

Report No. 17 — Home Rule for North Dakota Municipalities
By Lloyd B. Omdahl Mary, 1970 (out of print)

Report No. 18 — Community Development Training Manual for North Dakota City Auditors
By Harlan G. Fuglesten July, 1970 (out of print)

Report No. 19 — Feasibility Review of a North Dakota Civil Defense Regionalization Proposal
By Harlan G. Fuglesten, Lloyd B. Omdahl, August, 1970
(out of print)

Report No. 20 — Sources of Legislation in the Legislative Assembly of North Dakota
By Boyd L. Wright October, 1970

Report No. 21 — How to Organize a City Park District
By Harlan G. Fuglesten November, 1970

Report No. 22 — Community Development Manual on the Creation of Local Housing Authority
By Harlan G. Fuglesten December, 1970 (out of print)

Report No. 23 — Implementing Home Rule in North Dakota
By Lloyd B. Omdahl January, 1971

Report No. 24 — Nine Years of School Bond and Mill Levy Elections in North Dakota
By Lloyd B. Omdahl January, 1971

Report No. 25 — County Commissioner Redistricting
By John Dignan & Boyd L. Wright June, 1971

Report No. 26 — Patterns of Voting in the 1971 North Dakota House Of Representatives
By Harlan Fuglesten August, 1971

Report No. 27 — The Role of the State and Federal Committee in North Dakota's Legislature Process
By Larry D. Thompson September, 1961

Report No. 28 — Community Development Manual on the Creation of a Local Planning and Zoning Commission
By Michael Maus and Boyd L. Wright September, 1971